

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
CHRISTOPHER DELANEY,
ROCKNE BOGER, LORIE MAAK-INGRAM,
JIM MAGER & VICTORIA ZACKSORN,

Appeal No. 14-058

Appellant(s)

vs.

DEPARTMENT OF PUBLIC WORKS
BUREAU OF URBAN FORESTRY,

Respondent

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on March 24, 2014, 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 January 14, 2014, to Richard Price, Tree Removal Permit (approval to remove six (6) existing trees and plant nine (9) new trees) at 2051 - 3rd Street aka 650 Illinois Street.

APPLICATION NO. 771015

FOR HEARING ON May 07, 2014

Address of Appellant(s):

Christopher Delaney et al., Appellants
600 Illinois Street
San Francisco, CA 94107

Address of Other Parties:

Richard Price, Permit Holder
c/o Melinda Sarjapur, Attorney for Permit Holder
One Bush Street #600
San Francisco, CA 94104



Date Filed:

BOARD OF APPEALS

MAR 24 2014

APPEAL # 14-058

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

PRELIMINARY STATEMENT OF APPEAL

I / We, Christopher Delaney, Rockne Boger, Lorie Maak-Ingram, Jim Mager & Victoria Zacksorn, hereby appeal the following departmental action: **ISSUANCE of Tree Removal Permit NO. 771015 by Department of Public Works Bureau of Urban Forestry** which was issued or became effective on: **January 14, 2014**, to: **Richard Price**, for the property located at: **2051 - 3rd Street aka 650 Illinois Street**.

Jurisdiction Granted 3/19/2014.

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: **April 17, 2014, (no later than three (3) Thursdays prior to the hearing date)**, up to 12 pages in length, double-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

of Dew Respondent's and Other Parties' Briefs are due on or before: **May 01, 2014, (no later than one (1) Thursday prior to hearing date)**, up to 12 pages in length, doubled-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

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

Hearing Date: **Wednesday, May 07, 2014, 5:00 p.m., City Hall, Room 416, One Dr. Carlton B. Goodlett Place.**

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 submit an original and 10 copies of all documents of support/opposition no later than one (1) Thursday prior to hearing date by 4:30 p.m. 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 at the Board's office. 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.

If you have any questions please call the Board of Appeals at 415-575-6880

The reasons for this appeal are as follows: see attached.

Appellant or Agent (Circle One):

Signature: *Christopher D. Delaney*

Print Name: *CHRISTOPHER D. DELANEY*

PRELIMINARY STATEMENT OF APPEAL

Date **MARCH 24 2014**

Filed:

BOARD OF APPEALS

MAR 24 2014

SUMMARY OF REASONS OR GROUNDS FOR APPEAL CONTINUED:

APPEAL # **14-058**

WE BELIEVE THE REMOVAL OF THESE TWO SIGNIFICANT EUCALYPTUS SIDEROXYLON LOCATED @ 650 WINDIS, WHICH BY THEIR GIRTH + CANOPY HEIGHT + WIDTH / THEIR LOCATION ADJACENT TO THE PUBLIC SIDEWALK + ECOLOGICAL VALUE AS A HABITAT FOR BIRDS + A FOOD SOURCE FOR BEES MEET ALL THE QUALIFICATIONS OF SECTION 810 A + WILL ADVERSELY IMPACT BOTH THE ECOLOGICAL + HUMAN INTERESTS OF BOTH OUR LOCAL + SURROUNDING NEIGHBORHOODS. INTERESTING IN THIS INCREASING DENSE URBAN ~~AREA~~ WE HAVE FEW REMAINING TREES OF THIS STATURE + MAGNIFICENCE - THIS IS AN URBAN AREA WHICH DEPERATLY NEEDS SUCH NATUREL AMENITIES FOR A BROAD SPECTRUM OF THE/OUR PUBLIC

Christopher Delaney

CITY AND COUNTY OF SAN FRANCISCO
Department of Public Works - Bureau of Urban Forestry **COPY**
2323 Cesar Chavez Street, San Francisco, CA 94124

PERMIT FOR PLANTING, MAINTENANCE OR REMOVAL OF SIDEWALK TREES

Pursuant to the provisions of Article 16, Sec. 806 of the Public Works Code, as amended, permission is hereby granted for:

Richard Price
Raintree 2051 Third Street LLC
28202 Cabot Rd # #300
Laguna Niguel CA 92677

BOARD OF APPEALS

MAR 24 2014

APPEAL # 14-058

This permit specifically grants permission for:

- Permit Remove Tree - 2 - *Eucalyptus* Spp :: *Eucalyptus*
- Permit Remove Tree - 3 - *Liquidambar styraciflua* :: *American Sweet Gum*
- Permit Remove Tree - 1 - *Lophostemon confertus* :: *Brisbane Box*
- Permit Plant Tree - 9 - Tree(s) ::

on the sidewalk adjacent to the premises at:
2051 03rd St

aka 650 Illinois st.

Permittee agrees to hold harmless the City and County of San Francisco, its officers, agents and employees from any damage or injury caused by reason of the planting or the placement or maintenance of the planter plants. The owner or owners of the respective property shall be solely liable for any damage. Per Article 16: Section 806.5.(b).(1) all work associated with a street tree permit must be completed within six (6) months of issuance, unless an extension has been granted by the Department. This permit must be on site when permission has been granted for removal of a street tree. If a tree species is not specified above, please contact Bureau of Urban Forestry to discuss an appropriate and approved species to plant.

Special Conditions: Section 136.1 of the Planning Code required the planting of eleven street trees. There are two existing Brisbane Box street trees to remain protected during construction. 24" box tree minimum size to be planted. On the Illinois St side of the property 4 trees will be planted and they will be Magnolia grandiflora tree species and on the 3rd St side of property 4 trees will be planted and will be Brisbane Box trees.

Date Issued: 1/14/2014
Permit No: 771015

Approved:
Director, Department of Public Works


Carla Short, Urban Forester
Bureau of Urban Forestry

Appeal of Tree Removal Permit Application 771015 2051 3rd Street

Board of Appeals Appeal No. 14-058

Hearing Date: July 2, 2014

Index:

- **Appeal Narrative** - General discussion regarding the compliance of the two Eucalyptus Sideroxylon with *Significant Tree Status* (as defined by San Francisco Public Works Code)
- **Exhibit 1** - Historic visual documentation of Eucalyptus Sideroxylon trees dating from 1990. The trees clearly have been in existence for approximately 50 years
- **Exhibit 2** - Location of the trees in relationship to the development of 2051 3rd street
- **Exhibit 3** - *Page 1.* Aerial view of the location of the trees on private land to the south of Mariposa st. and to the west of Illinois st. This aerial indicates that these two trees are the only two trees of 18" caliper that are thriving as an urban tree canopy.
Page 2. Images of the required street trees planted directly to the south of the proposed development on Illinois st. Note the scale of the Quercus Lobata trees after three years.
- **Exhibit 4** - Urban Forestry report prepared by Mr. Ray Moritz, certified arborist of Urban Forestry Associates incorporated.
- **Exhibit 5** - Visual Documentation of the inadequate posting of notice to remove the two Eucalyptus Sideroxylon trees located at 650 Illinois st., Thereby obstructing due process.
- **Exhibit 6** - *Public Response:* Professor Joseph McBride of UC Berkeley department of Environmental Science Policy and Management, positive commentary on the state of the trees as well as discourse on the need to stabilize and grow urban forests, San Francisco having the lowest rate of urban forests at 13.7%, in comparison to Los Angeles (21%), Seattle (23%), and Portland (30%).
- **Exhibit 7** - The relationship of the Eucalyptus Sideroxylon to the proposed adjacent park.
- **Exhibit 8** - The DPW printout on Significant and Landmark Trees, note that similar trees (Eucalyptus) have been granted landmark status in San Francisco, both for cultural and social significance.

June 26, 2104

via hand delivery

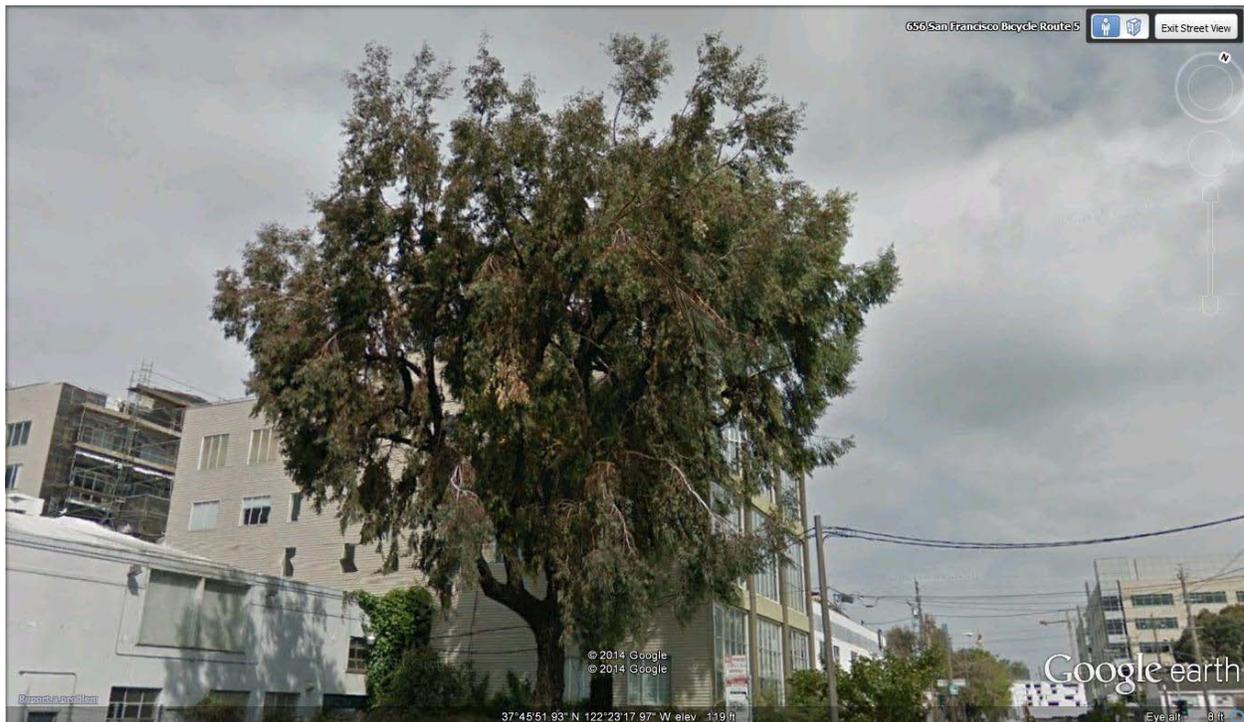
Ann Lazarus, President
San Francisco Board of Appeals
1650 Mission, Room 304
San Francisco, CA 94103

RE: **Appeal of Tree Removal Permit Application 771015**
2051 3rd Street----Board of Appeals Appeal No. 14-058
Hearing Date: July 2, 2014

President Lazarus and Members of the Board:

Introduction

The subject tree removal permit seeks permission for the removal of four small street trees on 3rd Street and for the removal of two large, significant *Eucalyptus sideroxylon*, commonly known as Red Iron Bark Eucalyptus. These *significant trees* (as defined by the San Francisco Public Works Code) are located on Illinois Street (shown below) and are just steps from the public sidewalk. These trees are more than 50' feet in height and are an integral part of the community and add an invaluable slice of greenery in this industrial and stark landscape.



This Board granted jurisdiction for this appeal on March 19, 2014. Although all of the neighbors treasure the trees, because the trees themselves were not posted by DPW with notice of removal, as required by the statute, none of the neighbors realized the trees were in danger. It is the neighbors' contention that the trees should be preserved as a crucial amenity for the community—including the future inhabitants of the proposed development. Appellants' points on appeal include the following:

(1) The San Francisco Urban Forestry Ordinance (under which this appeal is brought) was specifically designed for situations such as that before the Board. It was enacted for the purpose of saving "significant" trees exactly like the subject trees for the benefit of all.

(2) The subject trees are in the code required rear yard and the development needs an "exception" or variance to build in the area (which, in turn, requires cutting the trees). The development also proposes numerous other "exceptions" and concessions from the Planning Code and will bring tremendous negative impacts to the adjacent neighbors and this blue-collar community. It is reasonable to expect some fair concessions or return to the neighborhood such as saving these treasured trees.

(3) The subject trees stand as the only significant greenery for many blocks around and will nicely transition with the Crane Cove Park, a proposed 9-acre recreation and park facility *directly* across Illinois Street.

(4) Whatever decision the Board may reach, it makes no sense to issue such a permit and allow the trees to be destroyed prematurely before any entitlements or construction permits are issued. Further, the neighbors are also seeking "landmark" status for the trees and respectfully ask the Board to hold its decision in abeyance, or to make it contingent on final approval of construction permits or subject to a determination on the status of the trees and their future.

The Purpose of the Ordinance was to Save Important Trees Like These

The San Francisco Urban Forestry Ordinance was enacted in January 2006. Public Works Code Article 16, Section 8.01 sets forth the overarching purpose of the ordinance as follows:

“SEC. 801. PURPOSE.

The San Francisco Urban Forestry Ordinance is enacted to further the following public purposes:

- (a) To realize the optimum public benefits of trees on the City's streets and public places, including favorable modification of microclimates, abatement of air and noise pollution, reduction of soil erosion and runoff, enhancement of the visual environment, and promotion of community pride;*
- (b) To integrate street planting and maintenance with other urban elements and amenities, including but not limited to utilities, vehicular and pedestrian traffic, and enhancement of views and solar access;*
- (c) To promote efficient, cost effective management of the City's urban forest by coordinating public and private efforts within a comprehensive and professional management system;*
- (d) To reduce the public hazard, nuisance, and expense occasioned by improper tree selection, planting, and maintenance;*
- (e) To provide for the creation of an equitable, sustained, and reliable means of funding urban-forest management throughout the City;*
- (f) To create and maintain a unified urban-forest resource, enhancing the City's overall character and sense of place.*
- (g) To recognize that trees are an essential part of the City's aesthetic environment and that the removal of important trees should be addressed through appropriate public participation and*

dialogue, including the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.).

(h) To recognize that green spaces are vital to San Francisco's quality of life as they provide a range of environmental benefits and bring beauty to our neighborhoods and commercial districts.

(i) To ensure that landscaping in sidewalk areas is properly constructed and maintained in order to maximize environmental benefits, protect public safety, and limit conflicts with infrastructure.” (Added by Ord. 165-95, App. 5/19/95; amended by Ord. 17-06, File No. 051458, App. 1/20/2006; Ord. 121-06, File No. 060142, App. 6/14/2006)

The Ordinance is aimed at saving trees and green spaces throughout our ever more urban and dense city. The goal of the legislation is to “optimize public benefits” and to promote and recognize trees in our City as a crucial resource. This law also for the first time defined “*significant trees*” and created legal protection for significant trees on *private property*. Prior to the passage of this Ordinance private property owners had no limitation or controls on removal of any and all trees located on private property. Significant trees are defined in Section 8.10A of the Ordinance as follows:

“SEC. 810A. SIGNIFICANT TREES.

(a) Definition. For purposes of this Section, a significant tree shall be a tree: (1) on property under the jurisdiction of the Department of Public Works or (2) on privately owned-property with any portion of its trunk within 10 feet of the public right-of-way, and (3) that satisfies at least one of the following criteria: (a) a diameter at breast height (DBH) in excess of twelve (12) inches, (b) a height in excess of twenty (20) feet, or (c) a canopy in excess of fifteen (15) feet.”

For the first time, trees within view of the public right with significant size and importance received protection from removal by the owner of the property. For many years, the

City and members of the public had watched hopelessly as large and important trees were cut down and removed by private owners, generally for development purposes. Prior to the passage of this law, any and all trees on private property could have been removed without the City's permission or the public's participation. By extending the permitting process for removal of significant trees not only to City-owned street trees but also to trees on private property, the Ordinance reflected a national move by many communities to attempt to protect the urban forest as a shared public resource from the ravages of unchecked development.

There is a clear recognition now that trees – and collectively the urban forest - are major capital assets in cities across the United States. Just as streets, sidewalks, and public buildings are a part of a community's infrastructure, so are trees and they must be protected. Trees are on the job 24 hours every day working for all of us to improve our environment and quality of life. Trees are important to San Francisco. Environmentally, they help conserve and reduce energy use, reduce local and global carbon dioxide levels, improve air quality, and mitigate storm-water runoff. Additionally, trees provide a wealth of well documented psychological, social and economic benefits related primarily to their aesthetic effects. Environmentally, trees make good sense, working ceaselessly to provide benefits back to the community. (See, City and County of San Francisco Street Tree Census: Resource Analysis of Inventoried Public Trees—April 2013) However, San Francisco has a shortage of trees and the citywide canopy coverage is estimated at only 13.7%. We need to protect the trees we have, especially larger, significant trees which take decades to grow. The benefits of trees to the urban landscape and the people who inhabit it are countless:

Trees increase property values and provide residents with a greater sense of community

Trees produce oxygen, clean the air and reduce global warming by reducing energy use

Trees provide a critical habitat for wildlife and birds and promote connect to nature

Trees reduce the impact of urbanization and industry by reducing airborne particulate matter such as smoke and dust

Trees slow and reduce runoff and help protect critical waterways from excess pollutants

Trees calm traffic and soften the urban landscape

Trees and sidewalk gardens increase revenues in shopping districts

Trees and sidewalk gardens reduce crime and promote community

Trees and sidewalk gardens promote exercise and foster psychological health

Trees bring neighbors together to transform their block.

These particular trees bring many of these attributes to this neighborhood. The trees are filled with birds and local schoolchildren have named the trees “Mr. and Mrs. Murray,” and keep track of the trees health and status. The trees serve as a meeting ground and “water-cooler” discussion area for daily dog-walkers and other neighbors. The trees are far older than the buildings in the area and are estimated at 50-60 years of age. (Attached as Exhibit 1 are photos taken in the area in the early 1990’s before any adjacent residential buildings were constructed).

The Subject Trees are the Only Significant Greenery in the Area and a Transition Should be Created for Crane Cove Park --Directly Across Illinois Street

The trees are the only significant trees and indeed, the only real greenery in the surrounding area. This area is transitioning from a 100% industrial neighborhood to a mixed-use residential enclave. Along with the transition is the need for amenities such as parks and other open space green areas. Street trees, sidewalk gardens and other “greening” practices are needed to ease this transition. Accordingly, every bit of existing greenery is needed. As can be seen from

the below panoramic view of Illinois Street, these older, larger, significant trees are one of the few green spots in the entire area and the only street trees of any size in the entire area.



A survey of the area reveals that these trees are the only trees with a trunk diameter greater than 18” for the entire area. Attached hereto and marked as Exhibit 3 is a map and survey of the five block area of the Central water front which shows that these trees are unique and significant not just for the block but for the entire area. Other trees in the area are new and very small street trees. Attached as the second page of Exhibit 3 is a view looking north on Illinois Street, which shows the other street trees...which are small and have been “topped” to stunt growth.

The Trees Are Healthy and Saving Them Places Little Burden on the Developer

Because of the depth of the concern in this matter, the neighbors have a retained a professional arborist to examine and report on the trees. Attached hereto and marked as Exhibit 4 is a copy of the Arborist report from Ray Moritz of Urban Forestry Associates, Inc. As set forth therein, the Arborist examined the trees and has determined that they are in “excellent health and structural condition.”(Page 3—“Condition”) He also notes the dominant contribution to the neighborhood made by the trees and that the trees are viable for the future even though planted in a raised bed (Page 2---Observations). The Arborist also notes that the trees meet *all* of the criteria for qualification a “significant trees” under the Public Works Code (Pages2-3 --- Qualifications as Significant Trees).

As also noted in the arborist's report, the trees convey significant benefits to the community and hold a prominent visual position not only on the block, but also in the entire area. The trees contribute significantly to the environmental health of the area and at the same time maintaining and saving these trees will present very little financial burden on the subject lot because the trees are immediately adjacent to the public sidewalk (Page 3---Benefits & Burdens). Attached hereto and marked as Exhibit 5 are photographs showing the immediate proximity of the trees to the public sidewalk. As may be seen, the trees are approximately four feet from the public right of way and the canopy of the trees reaches into Illinois Street.

It is the Arborist's considered opinion that these trees are valuable, healthy contributing resources for the community. In a community with so little greenery and virtually no trees of this size, it would be a tragic error to issue a permit to remove the trees. Removal of these trees from this neighborhood would run directly counter to the legislative purposes of the San Francisco Urban Forestry Ordinance and is counter to all intelligent thinking on such matters. Such wonderful, valuable trees should only be removed as a very last resort or if the trees pose a danger or hazard to the surrounding neighborhood---not the case in this instance.

In fact, simple setbacks such as the project utilizes on the Third Street side of the project would create sufficient room for the trees on Illinois Street. Further, saving these large significant trees would create a nice transition from the site to Crane Cove Park, directly across the street. attached as Exhibit 7 is a rendering from the Crane Cove Park master Plan dated December 2013 which shows the approximately location of the subject site, the trees and the new Park.

If the Board somehow reaches a decision that the trees should be removed, it makes no sense to issue such a permit now and allow the trees to be destroyed prematurely before any

entitlements or construction permits are issued. If the Board should come to such a decision, the appellants respectfully request that the Board to hold its decision in abeyance, or make the decision contingent on final approval of construction permits or subject to a determination on the status of the trees and their future. The neighbors are in the process of seeking Landmark status for the trees. Similar trees (Eucalyptus) have been granted landmark status in other areas. The DPW printout on Significant and Landmark Trees is attached hereto as Exhibit 8.

Conclusion

The significant trees located on Illinois Street should be retained. The trees are a rare green spot for this section of the city and are healthy and structurally sound. The San Francisco Urban Forestry Ordinance was designed for the preservation of such precious urban resources and given the trees' close proximity to the public right of way little burden will be placed on the development parcel for the retention of the subject trees. The trees are located in what will be the required rear yard of the proposed new development parcel and "exceptions" should not be granted to the project which would result in the destruction of the trees. The retention of the significant trees will provide a nice transition to the new Crane Cove Park directly across Illinois Street. If the Board determines to permit the removal of the trees, the neighbors respectfully request that such permission be contingent upon the developer receiving all final entitlements for the project.

Very Truly Yours,

Topher Delaney

EXHIBIT 1

The trees were visible from 3rd Street before the construction of the residential structures next door.



The subject trees pre-date most buildings in the area. These photos date from the early 1990's and show the trees viewed from the north on Illinois Street.

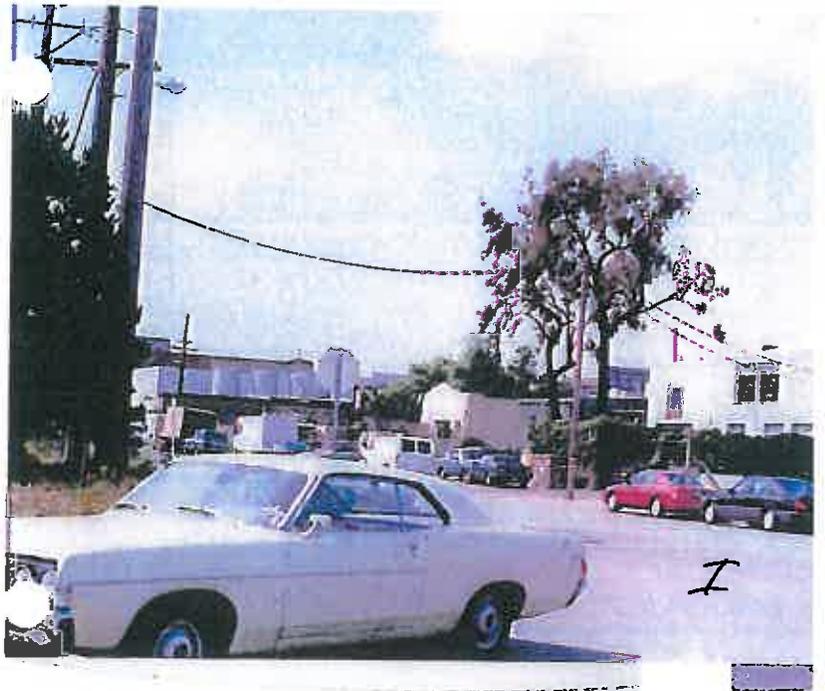


EXHIBIT 2

lot 8 into lots 30 to 41 for 1998 roll
lot 10 into lots 42 & 43 for 2005 roll
lots 9 & 7 into lot 44 for 2007 roll

3994

NEW POTRERO BLK. 413

REVISED '58
" '86
" '89

Revised 1998
Revised 2005
Revised 2007



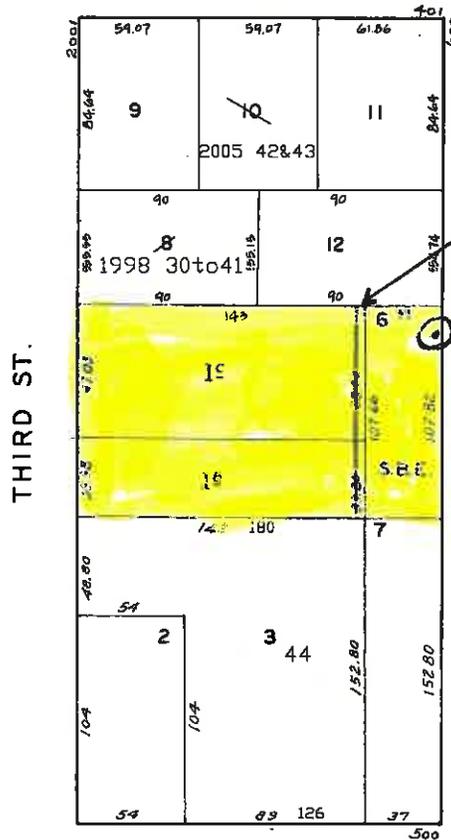
MARIPOSA ST.

2011 THIRD STREET
A CONDOMINIUM

LOT	UNIT	% COMM. AREA
30	1	8.57
31	2	7.86
32	3	9.02
33	4	8.96
34	5	8.44
35	6	8.43
36	7	7.56
37	8	7.57
38	9	9.73
39	10	9.62
40	11	7.11
41	12	7.13

455-457 MARIPOSA ST.
A CONDOMINIUM

LOT	UNIT	% COMM. AREA
42	455	50
43	457	50



THIRD ST.

ILLINOIS ST.

EIGHTEENTH ST.

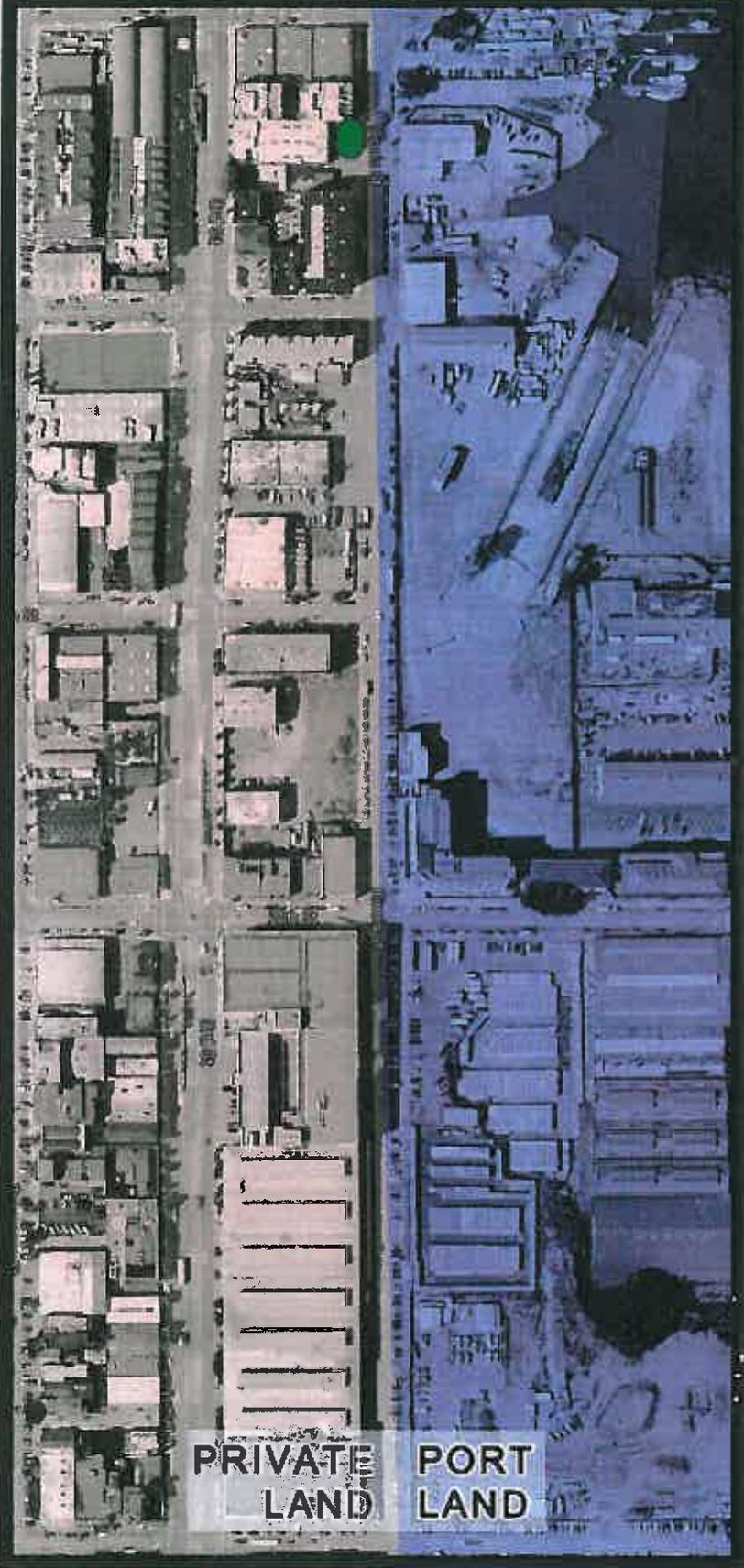
Proposed new lot 25%
required rear yard

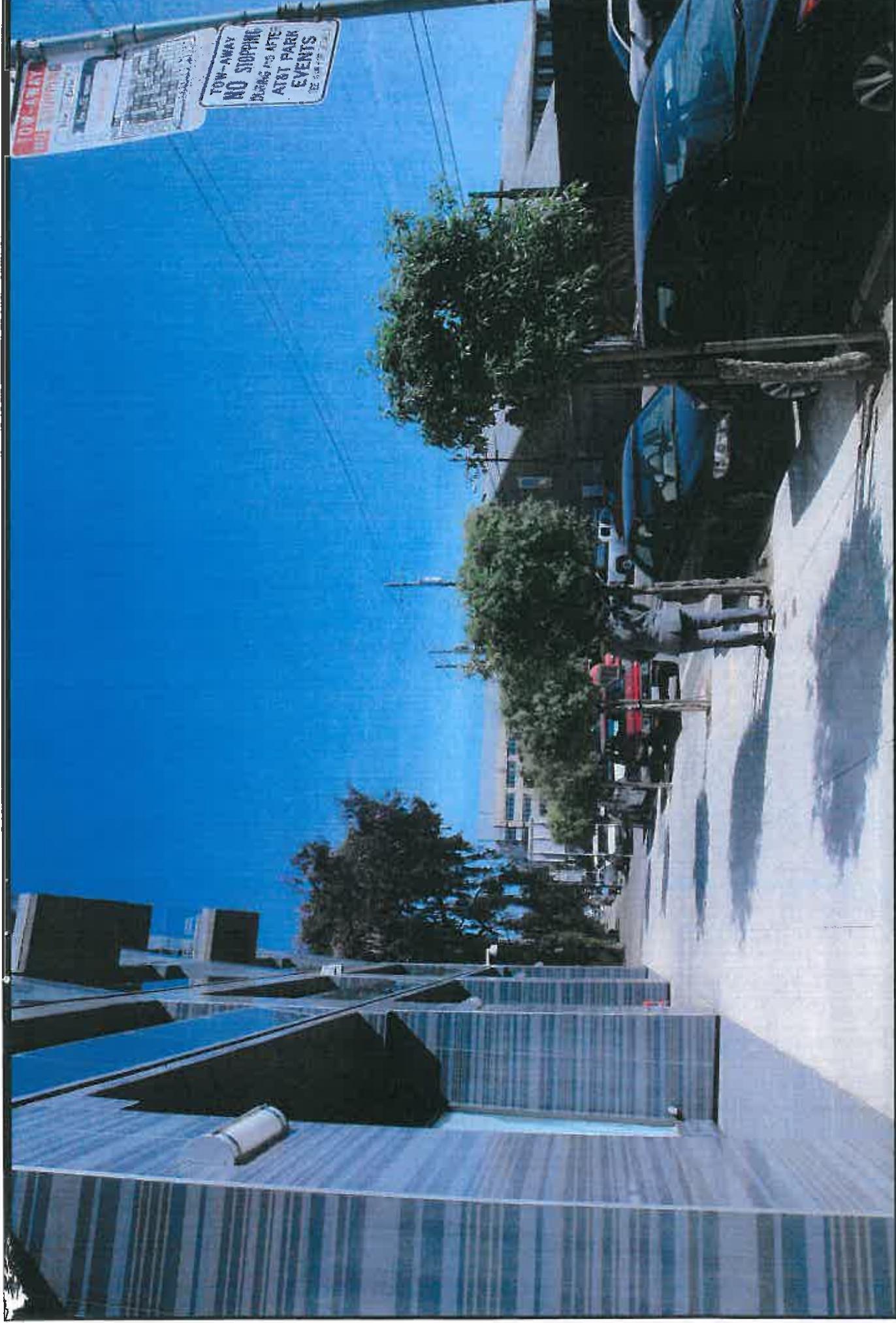
Location of Trees in the
required rear yard

EXHIBIT 3

DOGPATCH NEIGHBORHOOD TREE MAP

● = Trees with over 18" caliper trunk





EXISTING STREET TREES (QUERCUS SUBER) PLANTED AT DEVELOPMENT DIRECTLY TO THE SOUTH OF THE PROPOSED DEVELOPMENT OF 2051 3RD STREET. THESE TREES APPEAR TO BE TOPPED AT 10'-6".

EXHIBIT 4



URBAN FORESTRY ASSOCIATES, INC.

8 Willow Street San Rafael, CA 94901
(415) 454-4212 info@urbanforestryassociates.com

ARBORIST REPORT

Prepared by:
Urban Forestry Associates
8 Willow St.
San Rafael, CA
415.454.4212
info@urbanforestryassociates.com

PURPOSE

Urban Forestry Associates (UFA) was hired to inspect the two Red Iron Bark Eucalyptus trees along the sidewalk at 650 Illinois Street. I inspected the subject trees on the 21st of February, 2014. The purpose was to assess the benefits and burdens, condition, and a prognosis on tree health, vigor, structural stability and proposed removal of the two trees. This report documents the health and structural condition of the trees and provides our conclusions and recommendations.

OBSERVATIONS

Role of Trees in the Neighborhood

The two Significant Trees (Sec 810A of the Urban Forestry Ordinance) were planted at 650 Illinois Street adjacent to the public sidewalk (See Figures 1 and 2). This species selection is common throughout the City of San Francisco. The two trees are visibly mature in 1987 historic aerial photography appear to have been installed well before that date.



Figure 1- The subject trees 650 Illinois Figure 2 - The location of the trees adjacent to the public sidewalk.

The two trees are certainly make a dominant contribution to the neighborhood. It has been stated that the trees are not viable because they are rooted in a box. This opinion is mistaken. While they are planted in a raised bed the structural and lateral roots are obviously not confined to the raised bed. The roots extend throughout the patio in which the trees occur, well into the south private parking lot, across the private north paved space, across the sidewalk and quite likely under the street. The root crown (a.k.a. root collar) has bellied out the fence and raised a narrow portion of the sidewalk pavement.

QUALIFICATION AS SIGNIFICANT TREES

Significant Trees are defined in **Section 810A. SIGNIFICANT TREES, (a) Definition.** of Article 16: Urban Forestry Ordinance:

"(a) (2) on privately owned-property with any portion of the trunk within 10 feet of the public right-of-way, and (3) that satisfies at least one of the following criteria:"

"(a) a diameter at breast height (DBH) in excess of twelve (12) inches,"

- The subject trees are greater than or equal to 23" DBH and 20" DBH respectively.

"(b) a height in excess of twenty (20) feet,"

- The subject trees are greater than fifty (50) feet in height.

"© a canopy in excess of fifteen (15) feet."

- The subject trees have canopies in excess of forty (40) feet and thirty (30) feet respectively.

Thus the subject trees meet all three of the criteria for qualification as Significant Trees.

CONDITION

While the subject trees have been neglected and have received no apparent maintenance, they are in excellent health and structural condition. I found no evidence of "manifest danger". The trees require the regular standard maintenance of any urban tree to assure on-going structural stability, they do not present an unacceptable risk to people or property.

BENEFITS

The subject trees provide significant beauty to the neighborhood, energy conservation and shelter to the adjacent buildings. They have highly attractive fibrous, deeply furrowed, red iron colored bark, their evergreen foliage has an attractive blueish cast and their flowers are pink to red in color. The rustling of their woody leaves creates white sound that masks the other noises of the city. They serve to mask the mass of the adjacent and proposed buildings.

The provide both nesting and feeding habitat to birds, and abundant pollen to honey bees. On the other hand the eucalyptol in their leaves and bark discourages rodents and noxious insects.

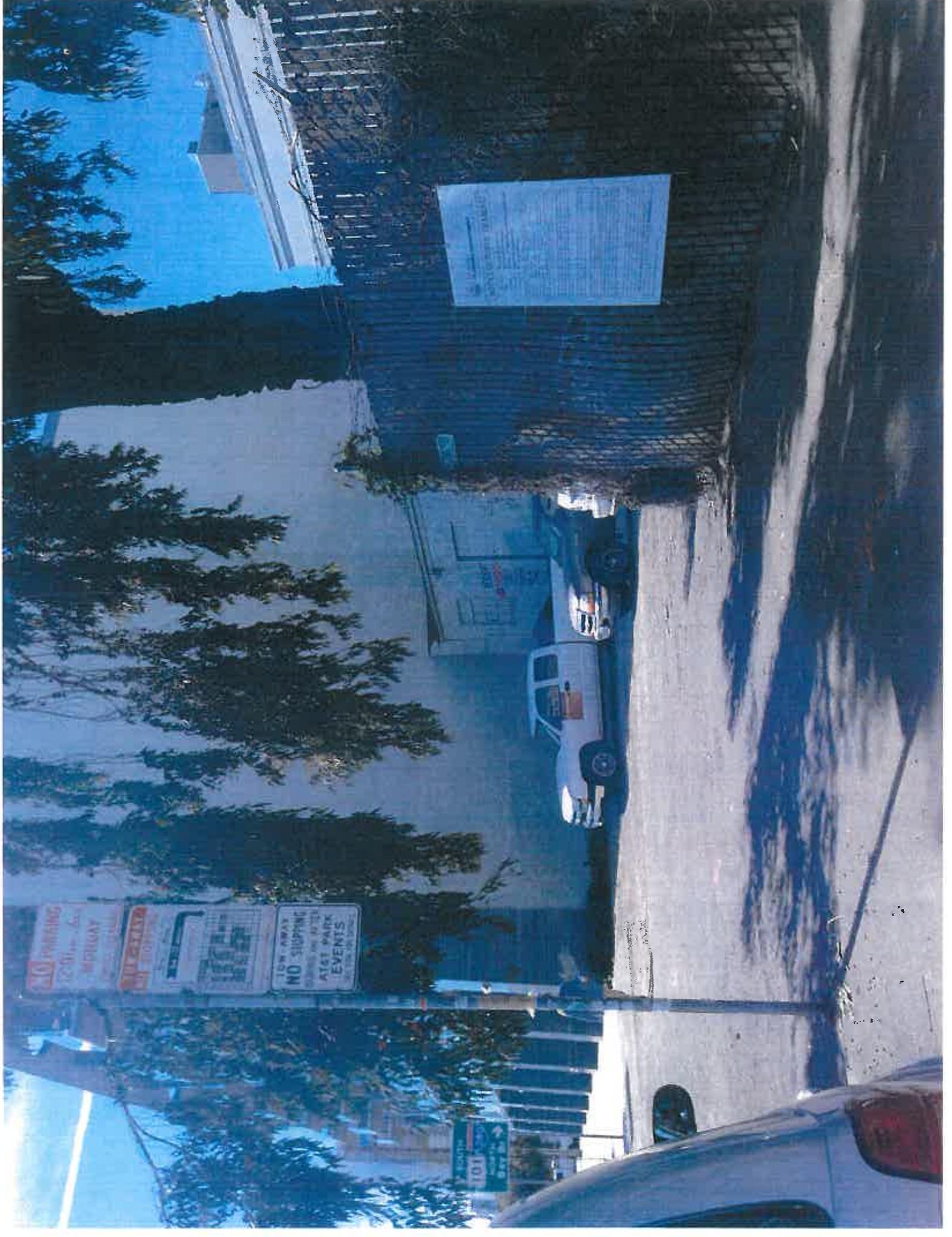
BURDENS

The trees are located immediately adjacent to the public sidewalk and therefore would not greatly diminish the proposed maximum development of the property. They might however dictate a accommodating east foundation design requiring a pier and grade beam type foundation east wall to preserve west extending roots.



Ray Moritz, Urban Forester - SAF Certified Forester #241
ISA Qualified Tree Risk Assessor #1205

EXHIBIT 5



NO PARKING
12-01, 12-02, 12-03
M-F 8:00 AM - 5:00 PM

MOTORIST INFORMATION
MOTORIST INFORMATION
MOTORIST INFORMATION

LOW AHEAD
NO STOPPING
12-01, 12-02, 12-03
AT & T PARK
EVENTS

101
SOUTH
101
SOUTH
101
SOUTH

NOTICE
NOTICE
NOTICE

656 San Francisco Bicycle Route 5



© 2014 Google

© 2014 Google

37° 45' 51.52" N, 122° 23' 17.72" W elev. 9 ft

GO



FACING SOUTH OF 610 ILLINOIS ST

EXHIBIT 6

UNIVERSITY OF CALIFORNIA, BERKELEY

BERKELEY • DAVIS • IRVINE • LOS ANGELES • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

COLLEGE OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL SCIENCE, POLICY & MANAGEMENT
DIVISION OF ECOSYSTEM SCIENCE
139 MULFORD HALL MC 3114

BERKELEY, CALIFORNIA 94720
(510) 642-9712
FAX (510) 642-6632

June 23, 2014

Ms. Topher Delaney
Delaney + Chin
600 Illinois Street
San Francisco, CA 94107

Dear Ms. Delaney,

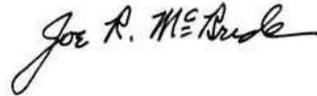
At your request I visited the two red ironbark (*Eucalyptus sideroxylon*) trees at 650 Illinois Street yesterday. Both trees are in good condition, although both support a few, small diameter dead branches that should be removed. I saw no evidence of any pathogenic fungal attack, eucalyptus long horned borer, or lerp psyllid on either tree. Nor was there any evidence of the root platform lifting the soil around the trees, which indicates the trees are well balanced in terms of their crown canopies and show no signs of tree fall hazard. The trees have been appropriately pruned in the past to provide both trees with a stable canopy and shade for the outdoor space at 650 Illinois Street. Since the trees were on private property I was not able to measure their diameters, but I estimated the diameter of the southernmost tree to be 20 inches and the tree on the north to be 27 inches. I was able to measure the height of the tree. Their heights were 63 feet (south tree) and 67 feet (north tree). Trees of this size qualify for heritage tree status in San Francisco.

The two trees are important landmark trees for this section of Illinois Avenue. The industrial area where they were planted many years ago was for the most part without trees. These trees, because of their size and uniqueness, served as important visual hallmarks to the local community. They also contributed locally to a reduction in the urban heat island by providing shade and absorbing heat from the air. Their canopies no doubt provided nesting sites for songbirds and their flowers nectar for overwintering Anna's hummingbirds. They are and should be allowed to continue to be important members of the community. Their presence can serve both as an historical reminder of the past San Francisco landscape and as providers of the ecological services mentioned above.

The recently published San Francisco Urban Forest Plan identified as a major issue the insufficient and shrinking tree canopy in the city. Currently the tree canopy of San Francisco amounts to only 13.7%, as compared to 21% for Los Angeles, 23%

for Seattle, and 30% for Portland. One of four key recommendations of the plan is to “stabilize and grow” the urban forest. The issue of the limited tree canopy and the recommendation for growing the urban forest will not be met with the removal of these trees. Both trees are of heritage status and should be protected. The small amount of square feet of buildable space achieved by removing these trees may add to the personal profit of the developer, but will seriously diminish the local environment these trees provide.

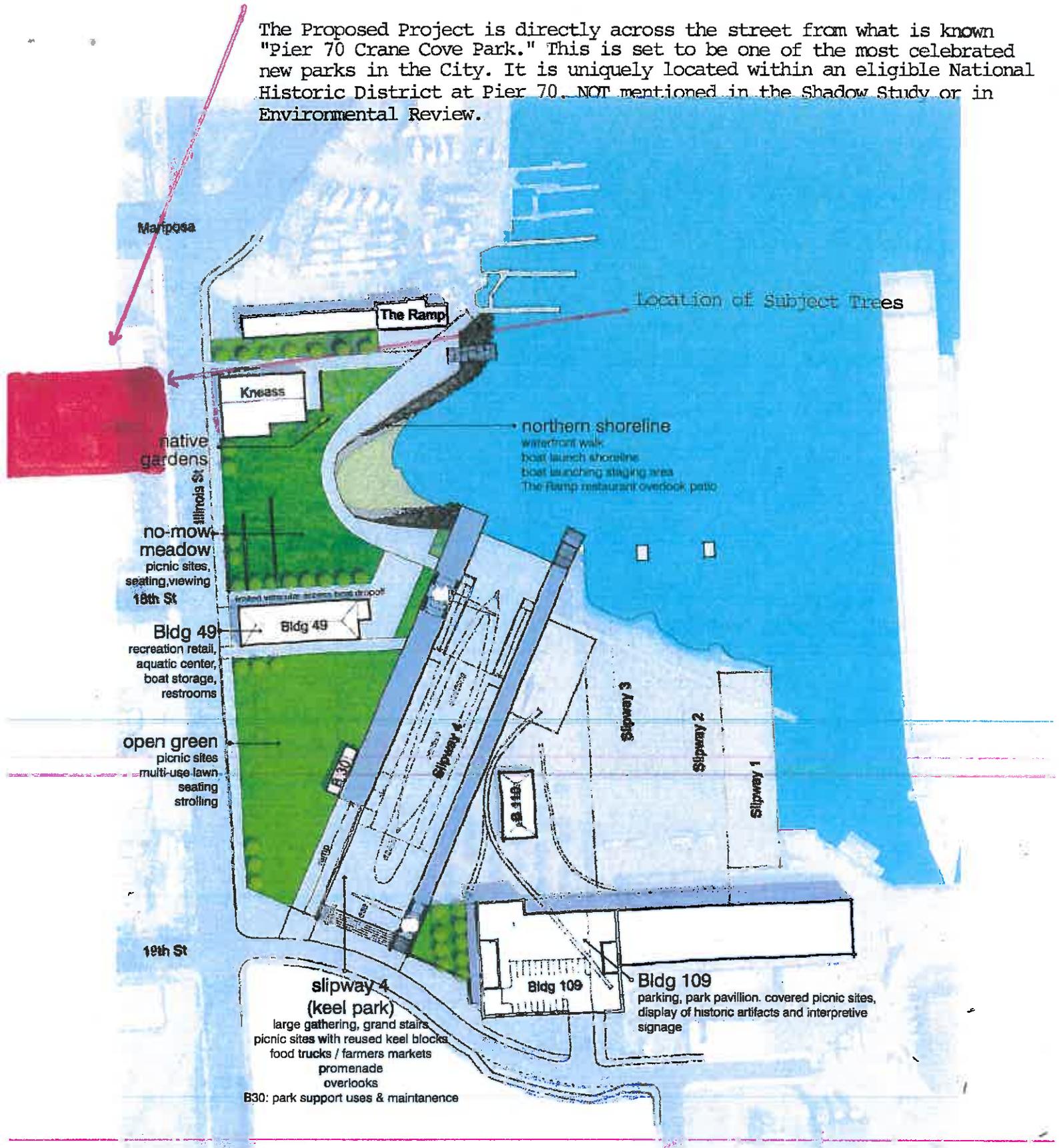
Sincerely,

A handwritten signature in black ink that reads "Joe R. McBride". The signature is written in a cursive style with a large, sweeping initial "J".

Joe R. McBride
Professor

EXHIBIT 7

The Proposed Project is directly across the street from what is known "Pier 70 Crane Cove Park." This is set to be one of the most celebrated new parks in the City. It is uniquely located within an eligible National Historic District at Pier 70, NOT mentioned in the Shadow Study or in Environmental Review.



scale 1" = 30'

December 2013 Crane Cove Park Master Plan

EXHIBIT 8

Landmark Trees

In 2007, The Urban Forestry Ordinance of the Public Works Code was revised by the Board of Supervisors to protect certain trees on private property that are close to the public right-of-way.

Significant trees are within 10 feet of the public right-of-way and also meet one of the following size requirements:

- 20 feet or greater in height,
- 15 feet or greater canopy width, or
- 12 inches or greater diameter of trunk measured at 4.5 feet above grade.

These trees are granted the same protections as street trees, and a permit is required before any significant tree can be removed. Permits are required for planting or removing street trees and significant trees.

Landmark trees are trees that have been designated by the Board of Supervisors as extra special. It may be due to the rareness of the species, their size or age, or extraordinary structure, or ecological contribution. In addition, historical or cultural importance can qualify a tree for Landmark Status. Property owners, any member of the Board of Supervisors, Planning Commission, the Landmarks Advisory Board, and/or directors of a city department may nominate trees on public or private land to protect and preserve their value and presence in the community under the San Francisco Landmark Tree Program.

Trees that are designated by the city for landmark status are protected from physical damage and removal.

List of Designated Landmark Trees

- 1) Six Blue Gum (*Eucalyptus globulus*) adjacent to 1801 Bush Street
- 2) Brazilian pepper (*Schinus terebinthifolius*) at Third St. and Yosemite Street in the median triangle
- 3) Flaxleaf paperbark (*Melaleuca linariifolia*) at 1701 Franklin Street
- 4) Sweet Bay (*Laurus nobilis*) at 555 Battery Street
- 5) New Zealand Christmas Tree (*Metrosideros excelsus*) at 1221 Stanyan Street
- 6) All Canary Island Date Palms (*Phoenix canariensis*) in the center island on Dolores Street
- 7) Thirteen Canary Island Date Palms (*Phoenix canariensis*) located throughout the Quesada Street median West of Third St. to the dead end.
- 8) Two Cliff Date Palms (*Phoenix rupicola*) in the Dolores Street median, one across from 730 Dolores Street and the second across from 1546 Dolores Street
- 9) The grove of Guadalupe Palm (*Brahea edulis*) in the Dolores St median, across from 1608-1650 Dolores Street.
- 10) Coast live oak (*Quercus agrifolia*) in the backyard of 20-28 Rosemont Place
- 11) California buckeye (*Aesculus californica*) in the backyard of 730 28th Avenue
- 12) Coast live oak (*Quercus agrifolia*) in the backyard of 4124 23rd Street
- 13) Two Flowering Ash (*Fraxinus ornus*) at the Bernal Height Library at 500 Cortland Street
- 14) Blue Elderberry (*Sambucus mexicana*) in the Bernal Height Natural Area near the intersection of Folsom and Bernal Height Boulevard
- 15) Moreton Bay Fig (*Ficus macrophylla*) at 3555 Cesar Chavez Street
- 16) Monterey Cypress (*Cupressus macrocarpa*) in the backyard of 2626 Vallejo Street
- 17) Howell's Manzanita (*Arctostaphylos hispidula*) in the backyard of 115 Parker Avenue
- 18) California Buckeye tree (*Aesculus californica*) located behind 757 Pennsylvania Street, (Assessor's Book 416B, Lot 11)
- 19) Norfolk Island Pine Tree (*Araucaria heterophylla*) in the courtyard of 2040-60 Sutter St.
- 20) Two Canary Island Palms (*Phoenix canariensis*) in the courtyard of 2040-60 Sutter St.

To nominate a remarkable tree, visit the Landmark Tree Program webpage at SF Environment.

For additional information, contact us at:

The Department of Public Works
Bureau of Street Use and Mapping
 1155 Market Street, 3rd Floor
 San Francisco, CA 94103
 (415) 554-6700



REUBEN, JUNIUS & ROSE, LLP

June 26, 2014

President Ann Lazarus
San Francisco Board of Appeals
1650 Mission Street, Room 304
San Francisco, CA 94103

Re: Project Sponsor's Opposition to Appeal of DPW Permit No. 771015
Hearing Date: July 2, 2014

Dear President Lazarus and Commissioners:

This office represents Raintree 2051 Third Street, LLC, the owner of 2051 Third Street (the "Property"), and sponsor of a 93-unit residential project that was unanimously approved for this site by the Planning Commission on June 5, 2014 (the "Project"). We write to oppose the appeal of Department of Public Works ("DPW") Permit No. 771015 (the "Permit"), which properly authorized the removal and replacement of six trees in connection with the Project, including two Eucalyptus trees located on the Property adjacent to Illinois Street.

The two Eucalyptus trees (the "Trees") do not merit retention and their continued presence at the Property subjects the Respondent to unreasonable liability. They represent a common, non-native species that is known for poor health conditions and is no longer recommended for planting anywhere in the City. The Trees are planted in raised beds, resulting in elevated and misshapen roots that suggest safety concerns. In addition, they show evidence of recent limb failures and have numerous heavy limbs that overhang the public sidewalk and are prone to failure in the future, endangering pedestrians. Finally, removal of these trees is necessary to facilitate development of the unanimously approved residential Project at this site.

We therefore ask that the Board deny this appeal and permit removal of the Trees without further delay, allowing Respondent to move forward with routine pre-construction activities.

James A. Reuben | Andrew J. Junius | Kevin H. Rose | Daniel A. Frattin
Sheryl Reuben¹ | David Silverman | Thomas Tunny | Jay F. Drake | John Keylin
Lindsay M. Petrone | Melinda A. Sarjapur | Kenda H. McIntosh | Jared Eigerman^{2,3} | John McInerney III²

1. Also admitted in New York 2. Of Counsel 3. Also admitted in Massachusetts

One Bush Street, Suite 600
San Francisco, CA 94104

tel: 415-567-9000
fax: 415-399-9480

www.reubenlaw.com

A. DPW Properly Issued the Tree Removal Permit

The Urban Forestry Ordinance (Department of Public Works Code, Article 16, *et. seq.*) requires a permit issued by DPW for the removal of most street trees and “significant” trees located on private property. (San Francisco Public Works Code §806(b).)¹

Please note that the term “significant” does not indicate that a particular tree is unique or important. Instead, the Ordinance defines “significant” trees to include all trees located on private properties within 10 feet of a public right of way that meet at least one of the following minimum size requirements: (a) a diameter at breast height of 12 inches or more; (b) a height exceeding 20 feet; or (c) a canopy exceeding 15 feet. (§810A(a).) As a result, trees may be categorized as “significant” under the Ordinance despite poor health, hazardous condition, commonality, absence of cultural value and/or lack of any other distinguishing factors.

i. DPW Tree Removal Recommendation Is Supported by Code Criteria

The Urban Forestry Ordinance provides the following criteria for consideration by the Director of DPW before issuing a permit for the removal of a “significant” tree: (1) size, age, and species; (2) visual and aesthetic characteristics; (3) cultural and historic characteristics; (4) ecological characteristics; (5) locational characteristics, including whether the tree is in a high traffic area or low tree density area; (6) whether the tree constitutes a hazard; and (7) whether the tree has been properly maintained. (§810A(c).)

On December 12, 2013, a DPW Urban Forestry Inspector visited the Property and personally inspected the condition and significance of the Trees² before issuing a

¹ Unless otherwise stated, all Code references herein refer to the San Francisco Public Works Code.

recommendation that they be removed. In making this recommendation, the inspector considered each of the specific criteria set forth in Ordinance, as documented on the Tree Evaluation Sheets attached as Exhibit A.

These forms reflect a inspector's professional recognition that the balance of criteria set forth in the Code weighs heavily in favor of removing the Trees. While the inspector noted that the Trees are large and prominent, this finding was outweighed by documentation of other numerous deficiencies, including that the Trees:

- Represent a non-native species that is "fast growing" and "short lived";
- Are planted in above-ground planters (evidencing potential structural concerns);
- Contain "some thin areas of canopy";
- Show heading cuts and co-dominant leaders (increasing risks of structural failure);
- Display "poor structure" and only "fair vigor"; and
- Show signs of previous branch failure.

The forms also indicate that the trees are between "fair" and "poor" condition, are only 40 years old, and that other examples of the same species were observed nearby on Mariposa Street. The Department's professional evaluation of the relevant Code criteria strongly supports upholding the Permit.

i. Independent, Certified Arborist Concurs with DPW Determination

The Respondent has also retained the services of Roy Leggitt, a certified and licensed consulting arborist with more than 25 years of experience, to examine and report on the

² In total, the Permit authorized removal and replacement of six trees on and adjacent to the Property. However, this brief focuses on the removal of the two "significant" Eucalyptus trees (the "Trees") planted in a raised bed on the Property adjacent to Illinois Street, as appellants do not contest removal of the other trees.

condition of the Trees. Following a thorough examination, the arborist wholly concurs with DPW's removal recommendation, noting that the Trees:

- Represent an ordinary, common, and problematic species that is readily observable at other nearby locations within the surrounding neighborhood;
- Belong to a species that is no longer recommended for planting within the City environment due to their fast growth pattern, which results in long, end-heavy limbs that are frequently subject to failure;
- Are planted in raised beds, resulting in a misshapen root structure that is limited in its ability to safely hold up the ever-increasingly large body of the trees; and
- Show evidence of recent limb failure and have reached a "point of maturity where failures are likely and the failing limbs will be large," constituting an elevated level of risk and potential nuisance.

As discussed in the arborist's full report, attached as Exhibit C, these trees simply do not merit retention. Removal is appropriate due to their common species, lack of historic or cultural context, potentially hazardous limb condition, and misshapen root condition. In addition, the arborist's report notes that all Eucalyptus trees contain resins that make them a potential fire hazard, and that this species is no longer recommended for planting within the City, as evidenced by their absence from the DPW Approved Street Tree Planting List (attached as Exhibit B).

These Trees should be removed, as their continued presence at the Property subjects the Respondent to ongoing liability. If the Trees or individual limbs should break off following a heavy wind, earthquake, or routine pre-construction activities at the site, nearby workers, equipment, property, residents, or pedestrians could be harmed.

ii. Upholding the Permit Will Not Harm Neighborhood Residents

Appellants have previously asserted that the trees are the “only significant trees” and “only real greenery” in the surrounding neighborhood. This is simply untrue. As noted in the certified arborist’s report, four trees of similar size and of the same species of Eucalyptus are located just around the corner from the Property on Mariposa Street between 3rd Street and Illinois Street. Many other large Eucalyptus trees are also found in the immediate neighborhood to the north, some of which are much larger than the subject trees. Other large species of trees such as Monterey Pine and Chinese Elm are also present in the immediate vicinity. Images depicting the location of adjacent “significant” trees and greenery are attached as Exhibit D.

In addition, upholding the Permit will result in a net increase trees and greenery in the area. The Permit authorizes the planting of nine (9) new street trees along both Illinois and Third Streets in connection with the Project. This will include four new Brisbane Box trees along Third Street and five new Magnolia trees along Illinois Street to replace the Trees and match the existing species planted along neighboring street frontages. The new trees will beautify the surrounding neighborhood for years to come, and will provide all of the benefits to the urban landscape cited in the Appellants’ previous brief, including (1) increasing property values and providing residents with a greater sense of community; (2) producing oxygen; (3) reducing the impacts of urbanization by reducing airborne particulate matter such as smoke and dust; (4) calming traffic and softening the urban landscape; and (5) promoting exercise and fostering psychological health. Renderings and a Street Plan depicting the new trees to be planted along Illinois Street as part of the Project are attached as Exhibit E.

The Property is also located just across Illinois Street from a proposed Crane Cove Park site. Although no entitlement or environmental review applications have yet been submitted for the development of this site, the Port of San Francisco is pursuing plans to locate a landscaped open green area at the site in the future. This park area would expand access to greenery in this transitioning industrial area, and would be complemented by the Project's adjacent row of Magnolia trees. Renderings provided in a December 2013 Port presentation of the of the Northern Shoreline portion of the proposed park that would be located across Illinois Street from the Project are attached as Exhibit F.

B. Retention of the Trees Would Severely Impact the Project

On June 5th, 2014, the Planning Commission unanimously approved a Large Project Authorization ("LPA") entitlement for a project at the Property that will merge three lots at the center of the block and construct a six-story residential project containing 93 new dwelling units, a subterranean parking garage accessible from Illinois Street containing 74 space-efficient parking spaces, and approximately 730 square feet of ground floor retail and flex space lining both Third and Illinois Streets. The Project's LPA was not appealed to this Board within the requisite 15-day period, and is now final. No further Planning Department entitlement is required for the Project. A copy of the approval Motion is attached as Exhibit I.

Requiring retention of the Trees would significantly burden the fully-approved Project by reducing its residential density, eliminating required active street frontage along Illinois Street, and restricting the ability to provide below-grade parking.

i. Burden of Retaining the Trees on the Approved Residential Project

The Respondent's certified consulting arborist has evaluated the subject trees and determined that their retention would seriously impact the development of the Project. The subject trees have water-absorbing roots located throughout the Property's Illinois Street frontage, and a minimum 30-foot radius of undeveloped area would need to be maintained around these trees in order to protect these water-absorbing roots. Included in the 30-foot radius, a minimum 15-foot radius of undeveloped area would need to be maintained around these trees to prevent imminent structural safety concerns. In fact, a larger radius may be required due to the misshapen root base caused by their location of the subject trees within raised bed planters. This would likely render the Respondent unable to trench for utilities along most of the Illinois Street lot frontage, and make the location of below-grade parking in this area unfeasible.

An illustration demonstrating the minimum radius of impact to the Project associated with retention of the Eucalyptus trees is attached as Exhibit H. Based upon this information, the Respondent's architect estimates that retention of the Eucalyptus trees would require a reduction of approximately 15 dwelling units (i.e., 16%) and 16 below-grade parking spaces (i.e., 20%) from the Project, as well as compromising the ability to locate a cohesive street wall and Code-required active ground-floor uses in this area. The reduction in overall dwelling units could also lead to a loss of approximately 2 below-market rate units.

In addition, the attempt to retain these trees would likely require shifting the Project's garage entrance from Illinois Street to 3rd Street. This is undesirable, as Third Street is a busy street with no shoulder or buffer for slowing or turning traffic. Increased costs and Project delays associated with tree retention would also be substantial.

However, the potential reduction of residential density would perhaps constitute the most burdensome result of revoking the Permit, as it would compromise the intent of the Central Waterfront Plan to locate new high-density residential development on underutilized lots such as the Property in this transitioning industrial area.

ii. Reduction in Density Not Supportable Under the Housing Accountability Act

California Government Code Section 65589.5 (the “Housing Accountability Act”) states that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

1. The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than disapproval, or approval at a lower density.

The Act was adopted because the lack of housing in California has become a critical problem threatening the economic, environmental, and social quality of life. This lack of housing is partially caused by activities of many local governments that limit approval of housing projects.

A “significant adverse impact” is defined as a “significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was complete.”

As discussed above, the approved Project conforms to all height, bulk, density, and land use and other requirements of the San Francisco Planning Code. As part of its unanimous

approval on June 5th, the Planning Commission adopted findings confirming that its design is consistent with the General Plan and Central Waterfront Area Plan. This approval was not appealed to the Board within the requisite 15-day period and is now final.

As explained above, retaining the Trees would prevent the Project from being constructed as designed and approved by the Planning Commission. Respondent's architect estimates that upholding the permit and requiring retention of the trees would result in a reduction of approximately 15 dwelling units (i.e., 16%) from the Project. Accordingly, a Board decision granting this appeal and requiring retention of the trees would be tantamount to a condition that the Project's be developed at a lower density.

There is simply no evidence in the record to support the findings required by the Housing Accountability Act. The Project as designed and approved will have no "specific adverse impact" on public health or safety. Rather, retention of the Trees would have just such an effect, as they display evidence of poor health, and exhibit a compromised root base and heavy limbs that overhang the public right of way and are prone to future failure. These conditions pose an ongoing threat to public health and safety.

iii. Further Delaying Tree Removal Would Unreasonably Burden Respondent

Appellants' previous request that the Board delay removal of the Trees until after issuance of a "site permit" fails to acknowledge the realities of necessary pre-construction and site-preparation activities, and would unreasonably burden the Respondent.

A site permit is a construction document that may not be processed and issued by DBI until many months after a Project has received its final entitlement from the Planning

Commission. Here, Respondent received a final entitlement (the LPA) on June 5th, and is committed to developing the Project as soon as possible in reliance on that approval.

Removal of the Trees is now necessary in order for the permit holder to conduct common pre-construction and site preparation activities, as well as to protect itself from ongoing liability associated with the Trees during this process. For example, over the next few months the developer will need to conduct geotechnical and soils investigations at the site, as well as finalize utility locations and designs along Illinois Street. These activities will require drilling, taking coring samples and water table testing. The results of these site investigation activities are provided to City and local utility agencies before issuance of a site permit. The pre-construction activities are also important in order to complete the full design of the Project and provide comprehensive information to the Department of Building Inspection during the site permit process. The Trees and their root systems are within the footprint of the areas the Respondent will need to conduct this work, necessitating their removal without further delay.

C. The Trees Are Not Nominated For and Do Not Merit Landmark Designation

Appellants have previously asserted that they are in the process of seeking Landmark status for the Trees, and have asked that the Board hold its decision in abeyance until a final resolution of this process. However, Appellants present no evidence of sponsorship for landmark status, and the subject trees are not appropriate for such designation.

In order for a tree to achieve landmark status, it must be nominated by either: (1) the owner of property on which the tree is located, by a written request to the Urban Forestry Council; (2) the Board of Supervisors, Planning Commission, or Landmarks Preservation Advisory Board by adoption of a resolution of intent to nominate a tree for landmark status; or

(3) the director of a City agency or department, by filing a nomination letter with the Urban Forestry Council. (§810.) Following nomination, the Urban Forestry Council must hold a public hearing on the request in order to determine if a particular tree is special enough to merit landmark status under the Code. Appellants do not assert that any nomination of the subject trees has occurred, and there is no indication of pending landmark designation.

Further, these Eucalyptus trees are not appropriate for landmark designation. Landmarked trees are trees that have been designated by the Board of Supervisors as extra-special due to the rareness of their species, the size or age, their extraordinary structure, visual quality or unique historic or cultural significance. Size and location alone are insufficient for such designation – the subject tree must be remarkable in some way. The subject Eucalyptus trees meet none of these requirements. In the entire City, only a select group of trees has been granted landmark status. As appellants note, this list includes a group of six *Eucalyptus globulus* trees located adjacent to 1801 Bush Street. However, these trees are the only Eucalyptus variety ever to receive landmark designation in the City, the large memorial placard set into the walkway between these trees explains that they are remarkable due not only to their significant size and visual beauty, but also because they were planted by a famous African-American abolitionist known as “Mammy” Pleasant who lived at the site and operated an important element of the underground railroad. At the time of their designation, the trees were greater than 100 years old. The Board of Supervisors Resolution of Intent to nominate these trees for landmark status (attached as Exhibit G), also notes that the trees had been profiled in print and media coverage.

By contrast, the subject Eucalyptus trees are approximately 40 years old, show evidence of poor health conditions, and have no comparable historic or cultural significance. There is

simply nothing remarkable enough about these trees to merit a landmark designation. The Respondent therefore requests that this Board deny Appellants' request to condition or hold its determination on the underlying permit in abeyance on the basis of the undocumented and unsupported landmark designation request.

D. Conclusion

The Trees represent a non-native species common to the area, show evidence of poor health, and have no documented cultural or historic significance. Their continued presence subjects the Respondent to ongoing liability. In addition, their removal is necessary to facilitate the development of a highly-desirable residential project at the site, which will add 93 new units to the City's housing stock and result in a net increase of healthy street trees in the surrounding neighborhood. We therefore respectfully request that the Board uphold the permit, allowing removal of these trees without any further delay.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP



Melinda A. Sarjapur

cc: Arcelia Hurtado, Vice President
Commissioner Frank Fung
Commissioner Darryl Honda
Commissioner Chris Hwang
Cynthia Goldstein, Board of Appeals
Christopher Delaney, et al., Requestors

Exhibit A

CCSF - DPW - BUF TREE EVALUATION SHEET

City Maintained Tree (s) Privately Maintained Tree (s) Emergency Significant Tree (s)
 Article 16 Violation Rec Park SFUSD SF PORT Street Cleaning Date & Time 12am-6 Mon

Application is: APPROVED or DENIED

INSPECTOR: Sally Bentz

TODAY'S DATE: 12/12/13 LENGTH OF POSTING PERIOD: 30

FROM: 12/13/13 THRU: 1/11/14

LOCATION: 650 Illinois

CROSS STREET: Mariposa

Tree Order: 1

SPECIES NAME/TYPE: Eucalyptus - Red Ironbark

NUMBER OF SPECIES: 2 HEIGHT: 35-45' DBH: _____ (INCHES)

TREE (S) CONDITION: GOOD FAIR POOR

DEFICIENCIES OR CONCERNS:

Poor structure Fair vigor
Codominant leaders
Fast growing species and short lived
Found a few heading cuts
Signs of branch failures
Some thin areas of canopy * In above ground planter

SIDEWALK WIDTH OR # OF FLAGS: 5

SIZE OF TREE BASIN (S): _____

BASIN (S) ENLARGED (?) _____ *PROPERTY SETBACK: _____

SIDEWALK CONDITION: Good Fair

Hazardous # OF DAMAGE SQUARES: 42

OF TREE (S) TO BE REMOVED: 2

OF TREES TO BE REPLACED: 2 on street side

PROXIMITY OF INFRASTRUCTURE:

SEWER _____ UTILITY POLE _____ STOP SIGN _____ OVERHEAD ELECTRICAL WIRES _____
WATER _____ STREETLIGHT _____ GAS _____ HI/LOW VOLT. _____

COMMENTS:

RECOMMENDATIONS:

Remove and replant as street tree

SIGNATURE AND DATE

Sally Bentz 12/11/13

OTHER SPECIES ON THE BLOCK:

Oaks, Magnolia's, Eucalyptus

SPECIES SUGGESTIONS FOR LOCATION:

Significant tree criteria for consideration

PWC Article 16 Section 810A, "As part of the Director's determination to authorize removal of a significant tree, the Director shall consider the following factors related to the tree;"

Size, age, and species;

35-45', 40 years old, Red Ironbark

Visual and aesthetic characteristics, including the tree's form and whether it is a prominent landscape feature or part of a streetscape;

Large prominent trees

Cultural or historic characteristics, including whether the tree has significant ethnic appreciation or historical association or whether the tree was part of a historic planting program that defines neighborhood character;

Few Red Ironbarks on Mariposa St.

Ecological characteristics, including whether the tree provides important wildlife habitat, is part of a group of interdependent trees, provides erosion control, or acts as a wind or sound barrier;

It's a large tree may provide habitat
It's a non-native species

Locational characteristics, including whether the tree is in a high traffic area or low tree density area, or provides shade or other public benefits;

Yes wind and sound barrier

Visually assessable

Near 3rd st. which is busy. Close to areas of high to medium traffic.

Whether the tree constitutes a hazard tree as set forth in Section 802(o); and

Not a hazard

Whether the tree has been maintained as set forth in Section 802(l).

Trees were planted in above grade planters.

Other notable characteristics or considerations

A few headings cuts found on tree.

CCSF - DPW - BUF TREE EVALUATION SHEET

City Maintained Tree (s)
 Privately Maintained Tree (s)
 Emergency
 Significant Tree (s)
 Article 16 Violation
 Rec Park
 SFUSD
 SF PORT
 Street Cleaning Date & Time 12am-6 Mon

Application is: APPROVED or DENIED

INSPECTOR: Sally Bentz

TODAY'S DATE: 12, 12, 13 LENGTH OF POSTING PERIOD: 30

FROM: 12/13/13 THRU: 1/11/14

LOCATION: 650 Illinois

CROSS STREET: Mariposa Tree Order: 2

SPECIES NAME/TYPE: Eucalyptus - Red Ironbark

NUMBER OF SPECIES: 2 HEIGHT: 35-45' DBH: _____ (INCHES)

TREE (S) CONDITION: GOOD FAIR POOR

DEFICIENCIES OR CONCERNS:

* In above ground planter Thin areas of canopy
 Poor structure Fair vigor
 Codominant leaders
 fast growing species and short lived
 few heading cuts
 Signs of branch failures

SIDEWALK WIDTH OR # OF FLAGS: 5

SIZE OF TREE BASIN (S): _____

BASIN (S) ENLARGED (?) _____

*PROPERTY SETBACK: _____

SIDEWALK CONDITION: Good Fair

Hazardous # OF DAMAGE SQUARES: _____

OF TREE (S) TO BE REMOVED: 2

OF TREES TO BE REPLACED: 2 on street side

PROXIMITY OF INFRASTRUCTURE:

SEWER _____ UTILITY POLE _____ STOP SIGN _____
 WATER _____ STREETLIGHT _____ GAS _____

OVERHEAD ELECTRICAL WIRES _____
 HI/LOW VOLT. _____

COMMENTS:

RECOMMENDATIONS:

Remove and replant as street tree

SIGNATURE AND DATE

Sally Bentz 12/12/13

OTHER SPECIES ON THE BLOCK:

SPECIES SUGGESTIONS FOR LOCATION:

↑
Oaks, Magnolia's

Significant tree criteria for consideration

PWC Article 16 Section 810A, "As part of the Director's determination to authorize removal of a significant tree, the Director shall consider the following factors related to the tree;"

Size, age, and species;

35-45', 40 years old, Red Ironbark

Visual and aesthetic characteristics, including the tree's form and whether it is a prominent landscape feature or part of a streetscape;

Large prominent tree(s)

Cultural or historic characteristics, including whether the tree has significant ethnic appreciation or historical association or whether the tree was part of a historic planting program that defines neighborhood character;

Few Red Ironbarks on Mariposa St.

Ecological characteristics, including whether the tree provides important wildlife habitat, is part of a group of interdependent trees, provides erosion control, or acts as a wind or sound barrier;

Large tree may provide habitat
Non Native species

Locational characteristics, including whether the tree is in a high traffic area or low tree density area, or provides shade or other public benefits;

Yes - wind and sound barriers

Visually assessable

Near 3rd st. which is busy and close to areas of high to medium traffic.

Whether the tree constitutes a hazard tree as set forth in Section 802(o); and

Not a hazard

Whether the tree has been maintained as set forth in Section 802(l).

Trees were planted in above ground/grade planters.

Other notable characteristics or considerations

A few heading cuts found on tree.

Exhibit B

Street Tree List

San Francisco Street Tree Species List is a collaboration with SF Department of Public Works and Friends of the Urban Forest

Disclaimer: these lists contain trees that can work as sidewalk trees in San Francisco. Every planting site has unique conditions. A lot of factors go into choosing a tree. This list can help you decide but you must have species approval from the Department of Public Works prior to planting your tree.

List A: Species that perform well in many locations in San Francisco

Arbutus x Marina
 Callistemon citrinus
 Callistemon viminalis
 Cordyline australis
 Eriobotrya deflexa
 Ginkgo biloba Autumn Gold, Saratoga
 Lagunaria patersonii
 Lophostemon confertus (formerly Tristania conferta)
 Magnolia grandiflora Sam Sommers, St. Mary, Majestic Beauty, Little Gem
 Melaleuca linarifolia
 Melaleuca quinquenervia
 Metrosideros excelsus
 Olea europaea
 Pittosporum undulatum
 Platanus x acerifolia Bloodgood, Yarwood
 Prunus cerasifera Krauter Vesuvius
 Prunus serrulata Kwanzan
 Pyrus calleryana Aristocrat or Chanticleer
 Pyrus kawakamii
 Trachycarpus fortunei
 Tristaniopsis laurina
 Tristaniopsis laurina Elegant
 Ulmus parvifolia
 Washingtonia robusta

List B: Species that perform well in certain locations, with special considerations, as noted

Acacia baileyana Purpurea fast growing, high maintenance
 Acer buergeranum prefers heat, wind protection
 Acer rubrum prefers heat, wind protection
 Aesculus carnea gets windburn easily in summer even in protected sites
 Celtis sinensis prefers heat, wind protection, uneven performer
 Ceratonia siliqua needs large space, good drainage
 Corymbia ficifolia needs lots of sidewalk space
 Crataegus phaenopyrum
 Crataegus laevigata needs wind protection
 Cupaniopsis anacardioides uneven performer, needs heat, wind protection
 Eucalyptus nicholii needs space, fast growing, high maintenance
 Eucalyptus polyanthemos needs space, fast growing, high maintenance
 Geijera parvifolia prefers heat, wind protection
 Gleditsia triacanthos Shademaster fast growing, prefers heat, wind protection
 Hymenosporum flavum uneven performer, prefers heat, wind protection, good drainage, does well when protected from wind
 Jacaranda mimosifolia uneven performer, prefers heat, wind protection, good drainage
 Koelreuteria paniculata uneven performer, prefers heat, wind protection
 Laurus nobilis Saratoga uneven performer, prefers heat, wind protection, gets pests
 Leptospermum laevigatum roots poorly, needs staking for many years, or even permanent metal staking
 Ligustrum lucidum pollen irritates allergies
 Liquidambar styraciflua needs space for canopy and roots
 Liriodendron tulipifera uneven performer, gets pests, prefers heat and wind protection
 Lyonothamnus floribundus asplenifolius prefers heat, wind protection
 Magnolia grandiflora Russet large cultivar, needs space
 Maytenus boaria needs space for roots, produces many suckers
 Melaleuca ericifolia roots poorly, needs staking for many years
 Melaleuca styphelioides prickly and can root poorly
 Michelia doltsopa uneven performer, very slow grower, prefers heat and wind protection
 Phoenix dactylifera needs space due to height and width
 Phoenix canariensis needs space due to height and width
 Pistacia chinensis Keith Davey prefers heat, wind protection
 Pittosporum crassifolium best for narrow sidewalks in foggy and windy areas. Can leak sap from trunk.

Exhibit C

Tree Management Experts

Consulting Arborists

3109 Sacramento Street
San Francisco, CA 94115

Member, American Society of Consulting Arborists
Certified Arborists, Certified Tree Risk Assessors

cell/voicemail 415.606.3610

office 415.921.3610

fax 415.921.7711

email RCL3@mindspring.com



Raintree Partners

Attn: Richard W. Price

25 Taylor Street

San Francisco, CA 94102

Case: 2051 3rd Street (650 Illinois Street)
San Francisco, CA

Date: 4/30/14

ARBORIST REPORT

Assignment

- Inspect and evaluate two red ironbark eucalyptus (*Eucalyptus sideroxylon*) trees located at 650 Illinois Street.
- Review and consider various documents related to a permit application for tree removal and a subsequent appeal of the permit granted by the City.
- Provide an Arborist Report of findings and to make recommendations.

Background

Raintree Partners owns the through lot parcel at 2051 3rd Street / 650 Illinois Street. This owner has development plans that include removal of two trees on private property near the Illinois frontage. The trees are approximately 50 feet in height. The north tree is approximately 30 inches in diameter and the south tree is approximately 24 inches in diameter. San Francisco Public Works Code Section 810A defines "Significant Trees" as trees with any part of their trunk within 10 feet of the right-of-way and being 12 inches in diameter, 20 feet tall or 15 feet wide. Because these trees are large enough to qualify as Significant Trees, a permit application was applied for and granted by the Department of Public Works. This permit has been appealed and the tree removal permit application will be heard before the Board of Appeals.

An evaluation of these trees has been completed by the Department of Public Works prior to the issuance of the permit. This Arborist Report is meant to supplement the information provided by the City and illustrate the condition of these trees.

Observations and Discussion

Species Characteristics and Related Problems

These two red ironbark eucalyptus are mature trees, typical and contemporary to other mature trees of this same species nearby. These trees were likely planted in the 1970s, are not rare, and have no historic importance, but rather are quite average. There were 4 trees of similar size of this same species found just around the corner on Mariposa Street

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between 3rd Street and Illinois Street. All of these trees are large enough that they would be “Significant Trees” as well, if in a different location. Many other eucalyptus of this species and other species were found in the immediate neighborhood to the north, some trees being much larger than the subject trees. Please refer to photos 4, 5, 6, and 7.

This species was widely planted in the 1970’s and 1980’s, and was one of the darlings of Landscape Architects of that time. This species grows fast and is upright when young, and these trees provided quick results for new designs. Since the 1980’s, I am not aware of a single instance of these trees being recommended or planted anywhere. The Department of Public Works’ approved street tree planting list does not include this species of tree or any other eucalyptus species.

Tree Health and Safety

The long-term management of red ironbark eucalyptus is problematic. The fast growth is the result of our higher soil fertility, long growing seasons and abundant water, as compared to this tree’s native Australia. When planted in California, it is as if this species is growing on steroids. Fast growth is not good for trees. Fast growth results in long, end-heavy limbs with weak wood. These trees have developed long, end-heavy limbs that are now failing. There are two 8-inch limb stubs in the north tree that have recently lost 20-foot long limbs. Please refer to photos 8, 9, 10, 11, 12, 13, 14, 15, and 16. For these reasons, Landscape Architects are no longer planting this species, and the wholesale nurseries don’t carry these trees anymore because of their long-term problems and reputation as being problematic. In addition, all eucalyptus contain resins that make them a potential fire hazard.

Prior maintenance of these trees had recognized the fast growth problem, and the old topping cuts can be seen at 4 levels in the framework of trunks and limbs. Please refer to photos 12, 15, and 16. These old topping cuts are also weak points in the structure of the trees.

The City evaluation states that the trees are not hazardous. Based on the recent branch failures, I disagree, but I also think I understand their position. My experience with the City definition of hazardous is more specifically as to whether or not a tree is an **imminent hazard**. I do not believe that these trees are imminent hazards: trees that are likely to fall and cause harm at any moment. I do believe, however, that these trees are at a point of maturity where failures are likely and the failing limbs will be large. Please refer to photos 8, 9, 10, 11, 12, 13, and 14. In other words, these trees pose an elevated level of risk and are now a nuisance.

The trees were planted in raised beds or planters that are about 18 inches tall and 6 feet wide. The root structure of these trees is confined and misshapen by the planters. Trees normally develop a horizontal root plate, and this root structure is now compromised. The roots continue to absorb water and nutrients and the trees have continued to grow, but the root system is limited in its ability to safely hold up these ever increasingly large trees. The

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root system is inadequate and compromises tree safety. Please refer to photos 18, 19, 20, 21, 22, and 23.

The asphalt sidewalk is heaving due to root intrusion. This sidewalk is now hazardous to pedestrians and must be repaired. Root cutting will be required to make these repairs. This asphalt sidewalk does not conform to DPW standards and will be replaced with a standard curb and concrete sidewalk. This construction will further impact root structure. The critical root zone for structural roots and the tree protection zone for water absorbing roots will be heavily impacted by the sidewalk construction in either case. Tree health and safety will be further compromised. Please refer to photo 24.

Conclusions and Recommendations

These are good examples of an ordinary, common, and problematic species.

Because of the larger size and maturity point in these trees, limb failures are more likely, are large and create a greater risk.

Preservation of these trees is not recommended due to compromised root structure and limb safety concerns.

I recommend that these trees be removed and replaced with a better species selection that will not pose high risk to this property, the sidewalk and the roadway.

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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.

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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.

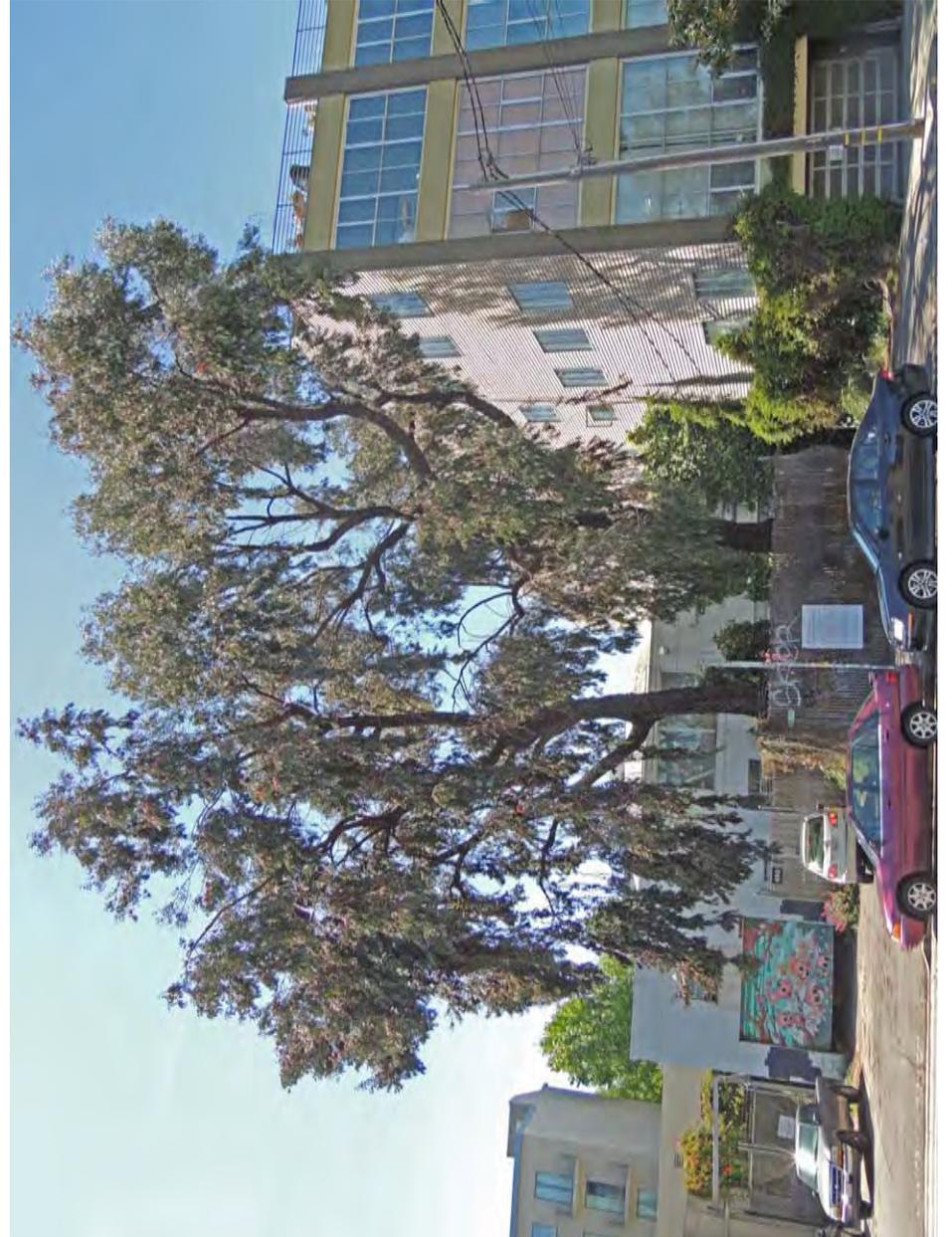
I have rendered professional services in a full time capacity in the field of horticulture and arboriculture for more than 25 years.

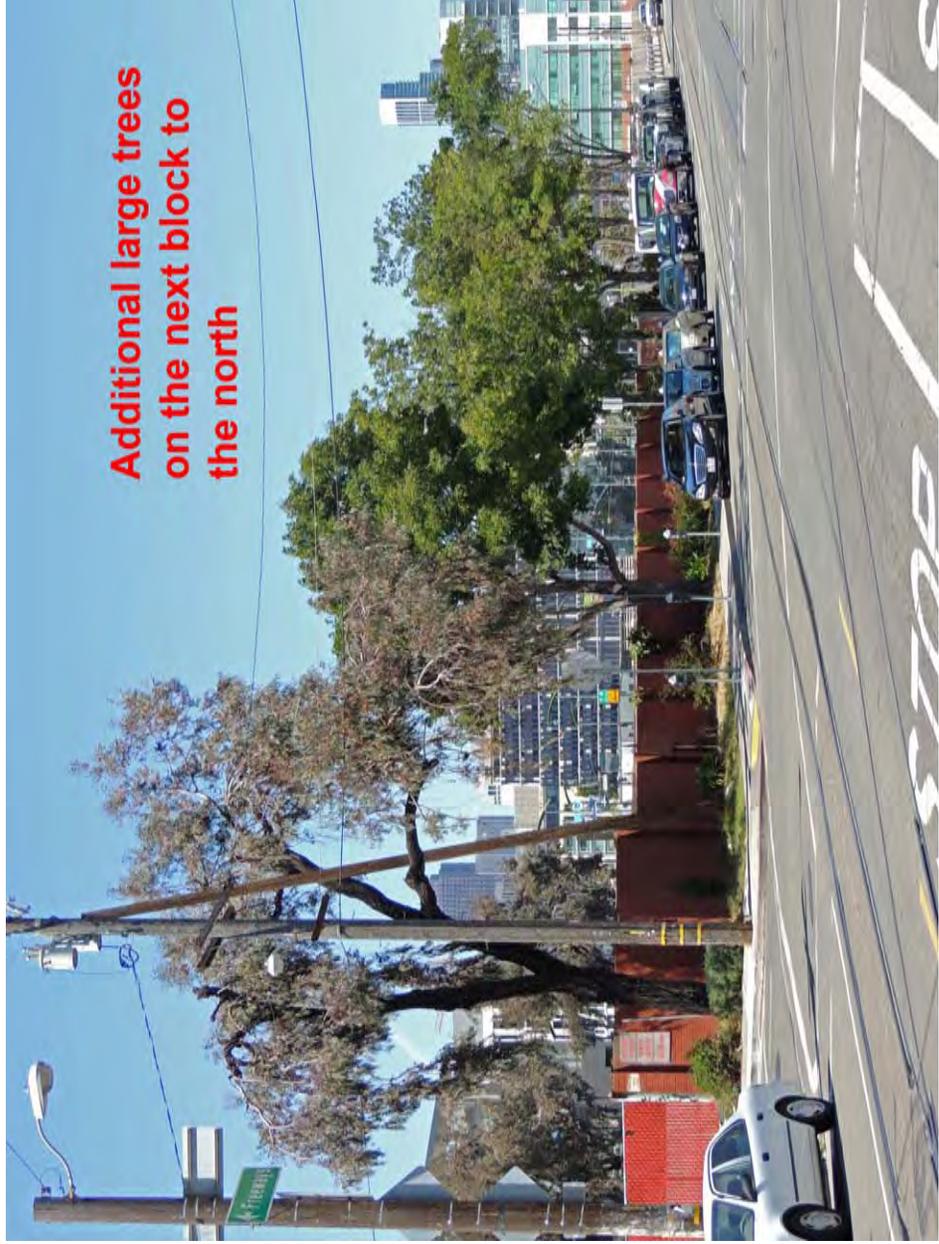
Signed: _____

Date: 4/30/14



End-heavy limbs over the sidewalk and roadway

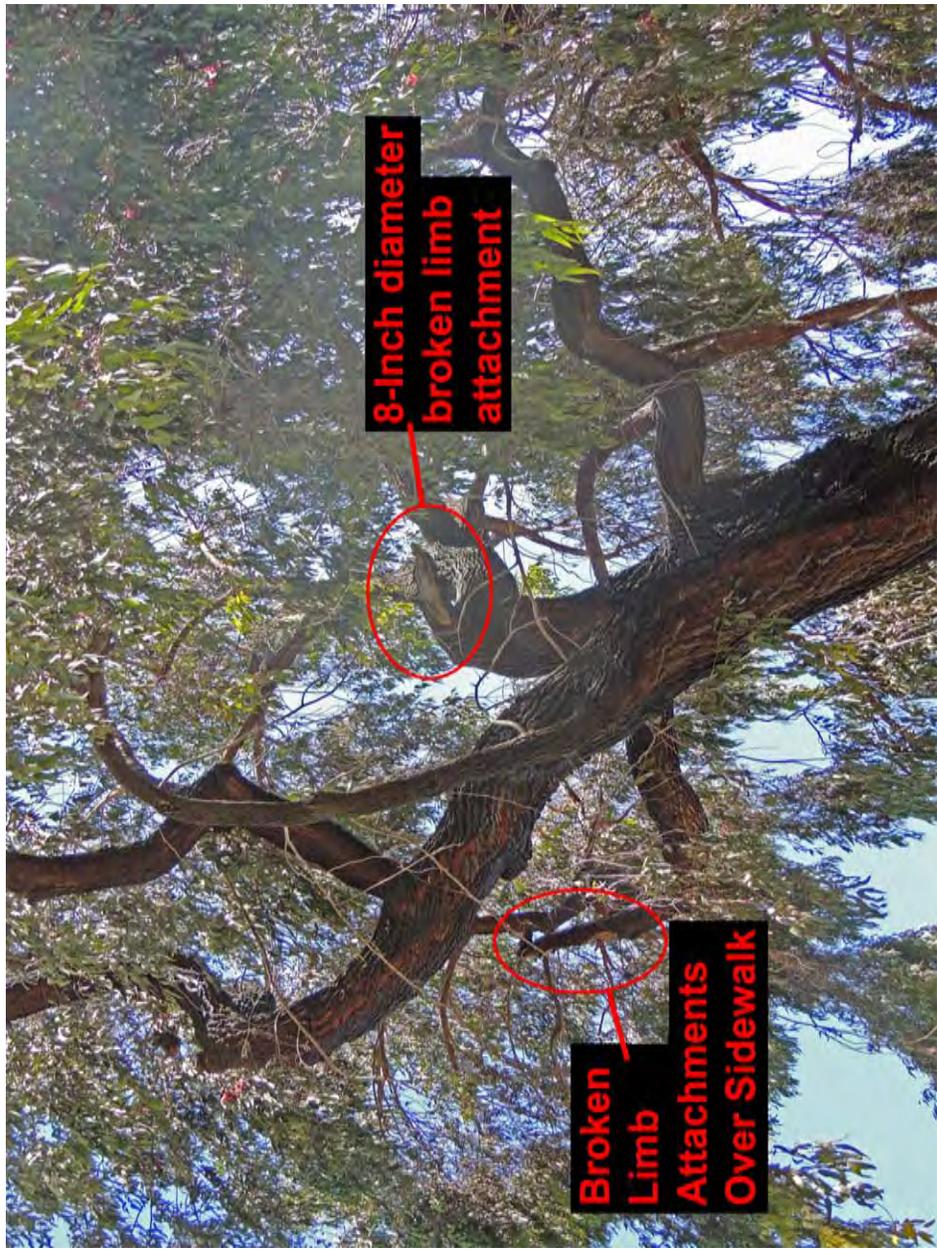
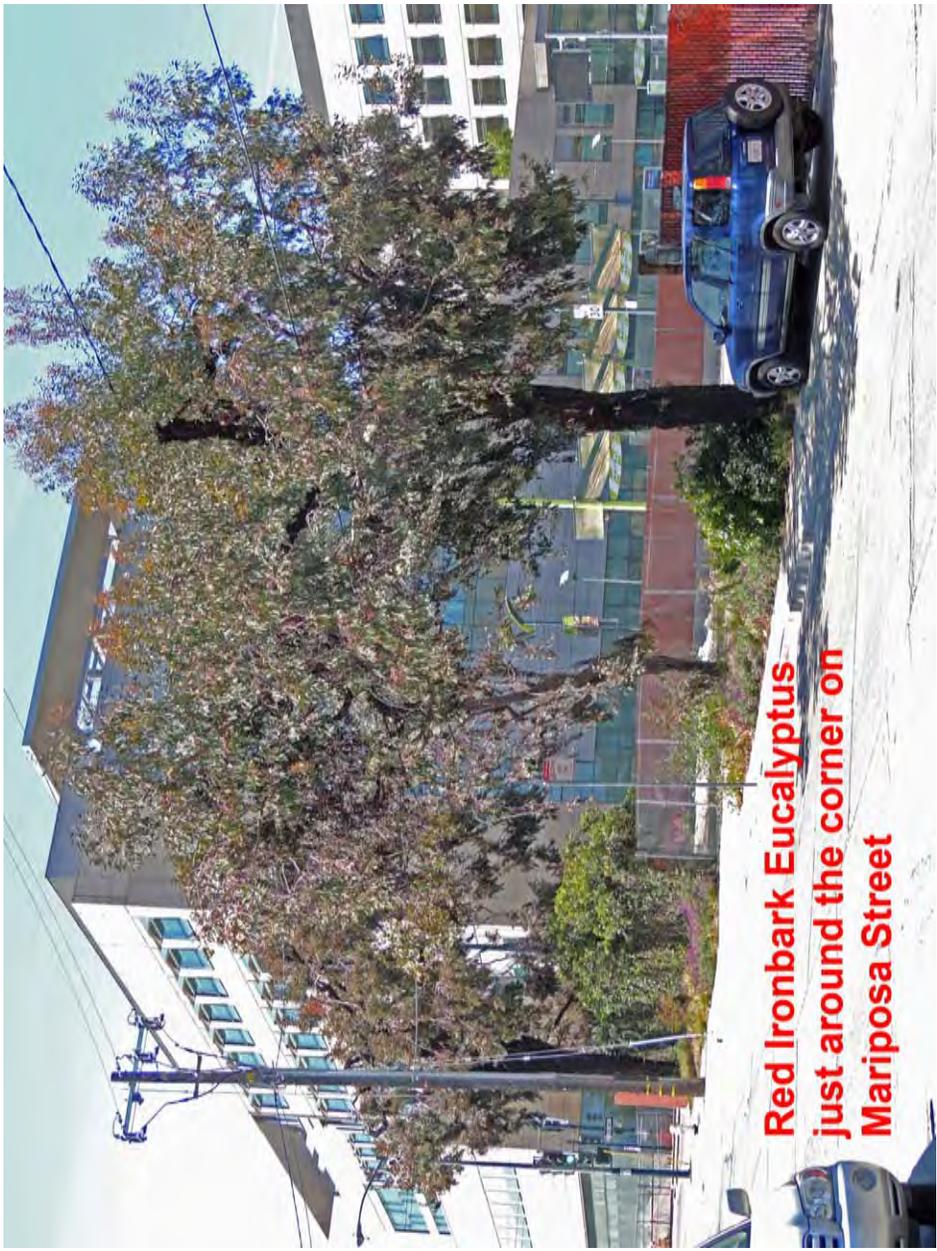


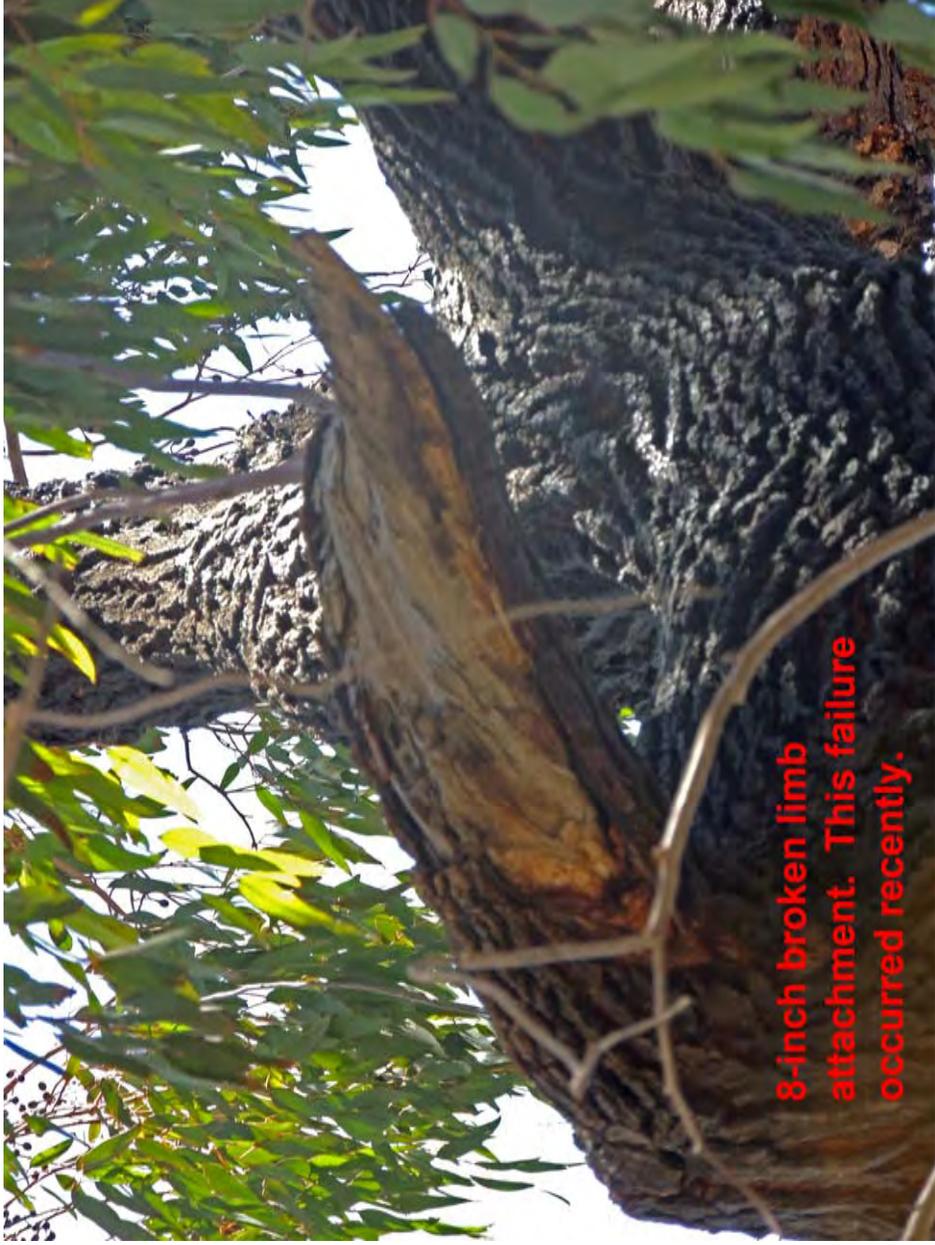


**Eucalyptus on the next block.
Trees are much larger than
the subject trees**



Large Monterey pines across the street

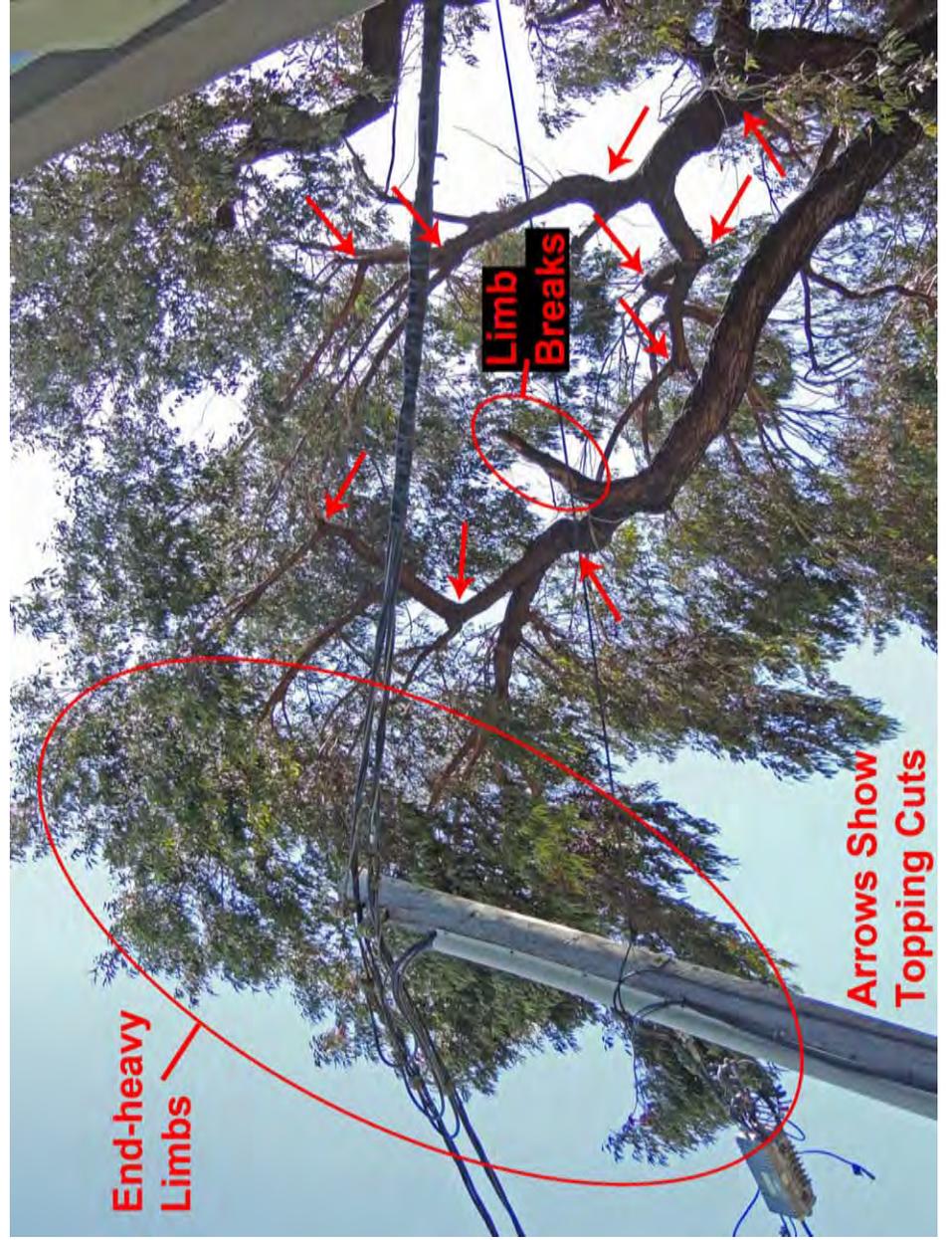




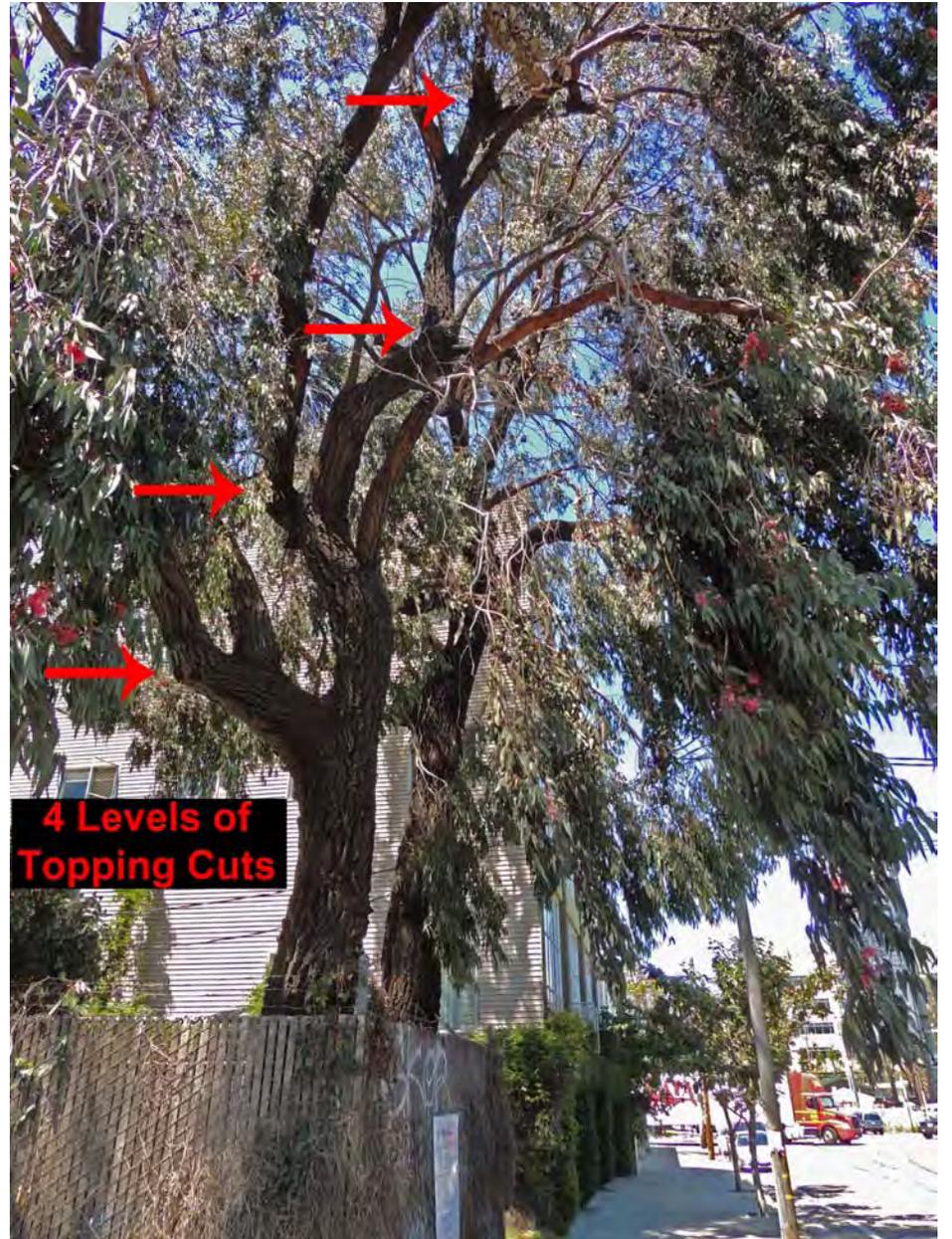
8-inch broken limb attachment. This failure occurred recently.



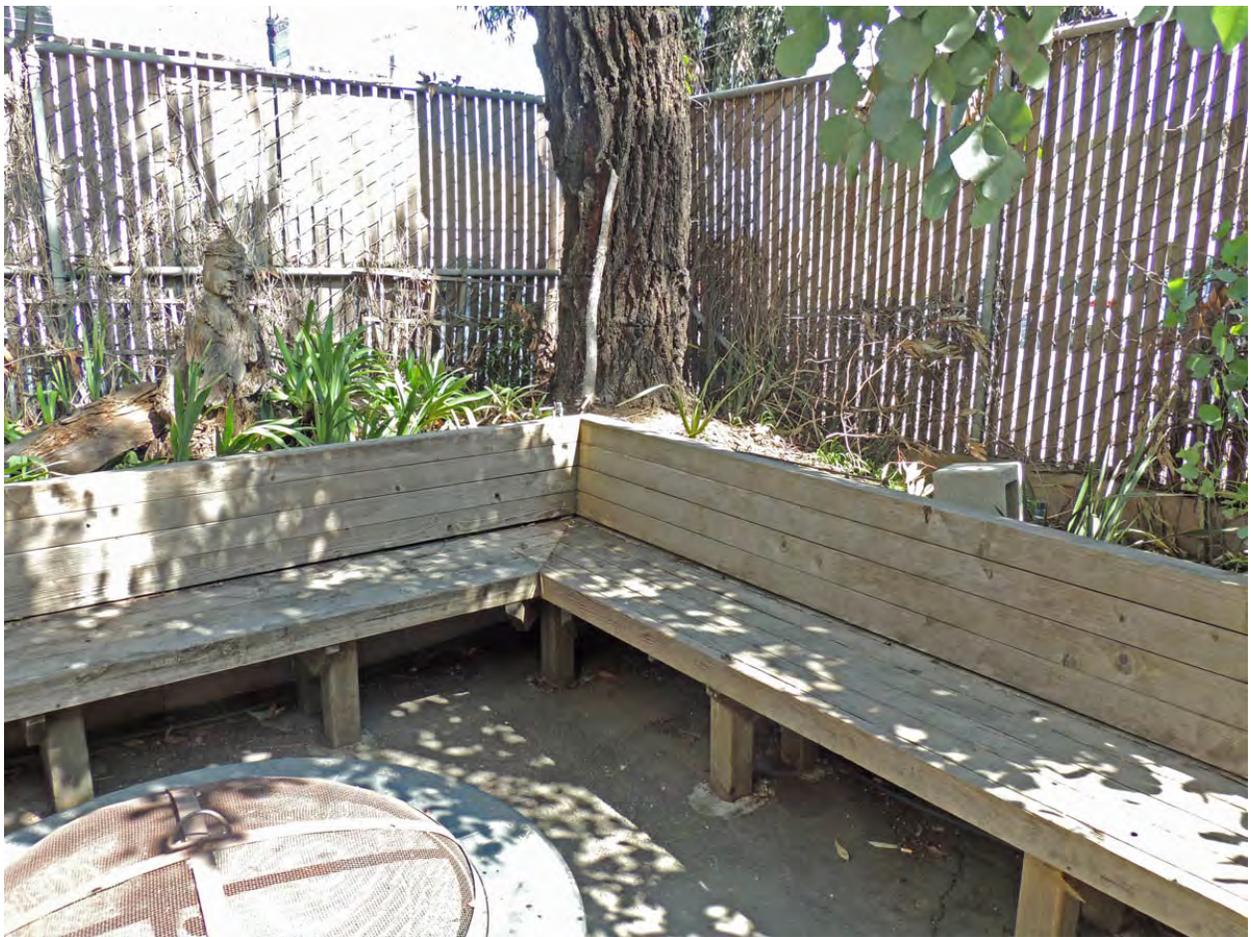
Broken Limb Attachments Over Sidewalk















**Cinder Block
Planter**



**Top of
Planter**



Top of Planter

Root Lifts

Sidewalk

Exhibit D

Exhibit D



Red Ironbark
Eucalyptus trees

Eucalyptus trees
that are much larger
than the Subject
Trees

Large Monterey Pines

Subject Trees

50 feet

Exhibit D



Exhibit D

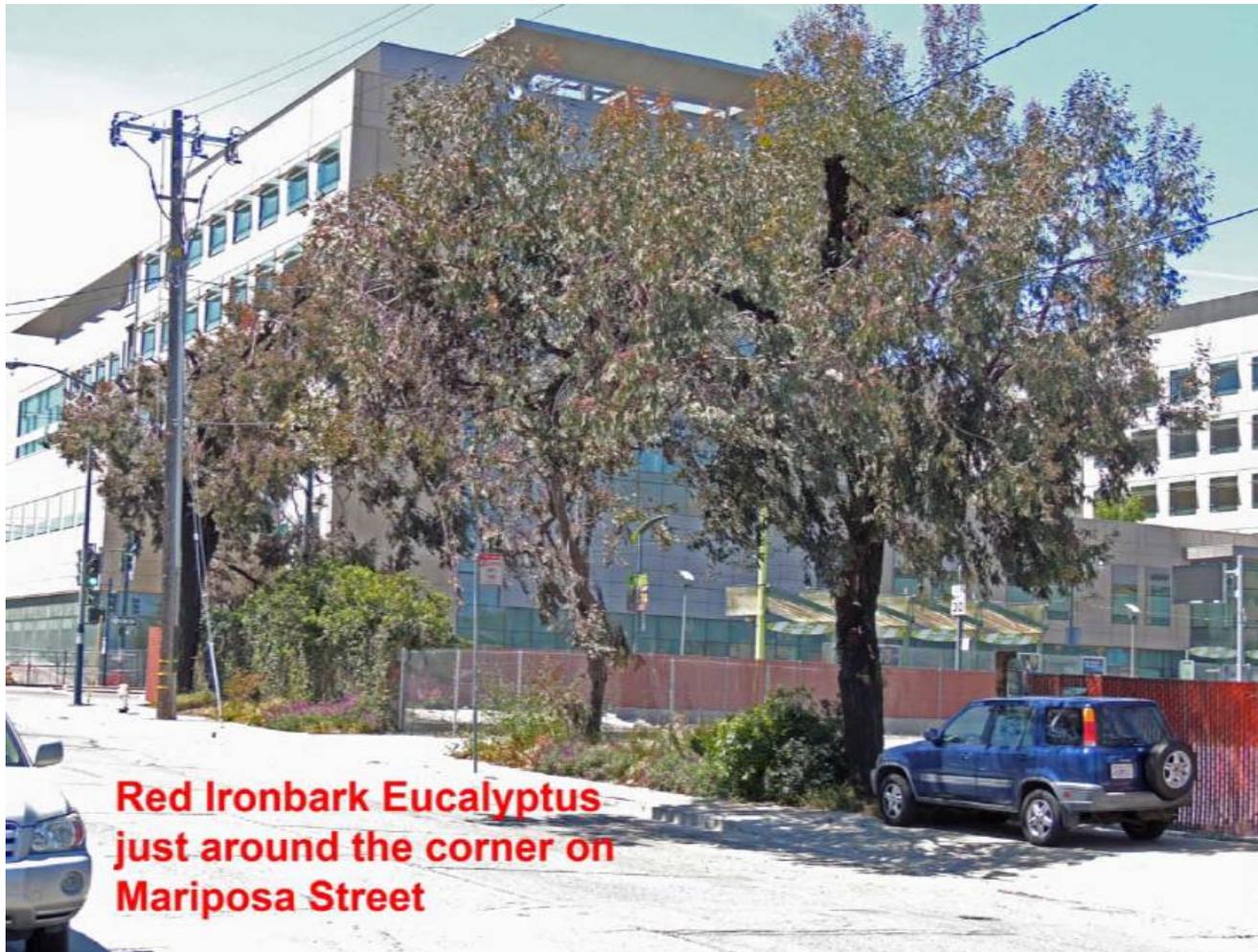


Large Monterey pines across the street

Exhibit D



Exhibit D



**Red Ironbark Eucalyptus
just around the corner on
Mariposa Street**

Exhibit E



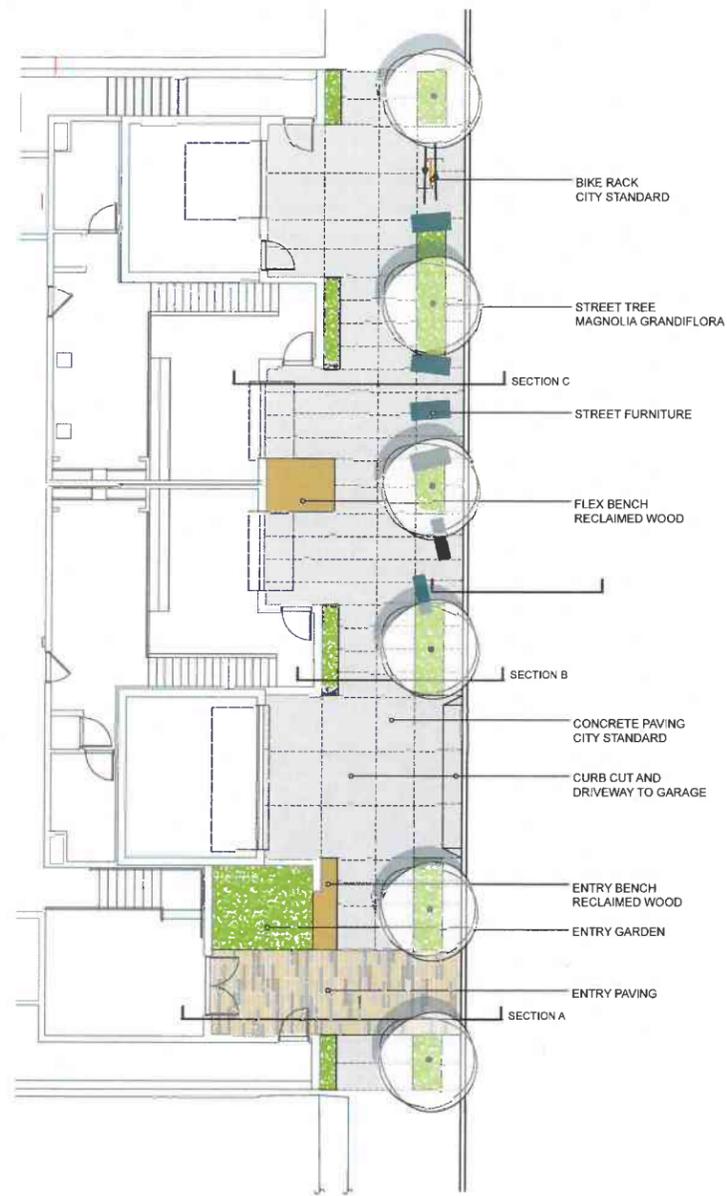
ILLINOIS STREET PERSPECTIVE - REVISED DESIGN

A32

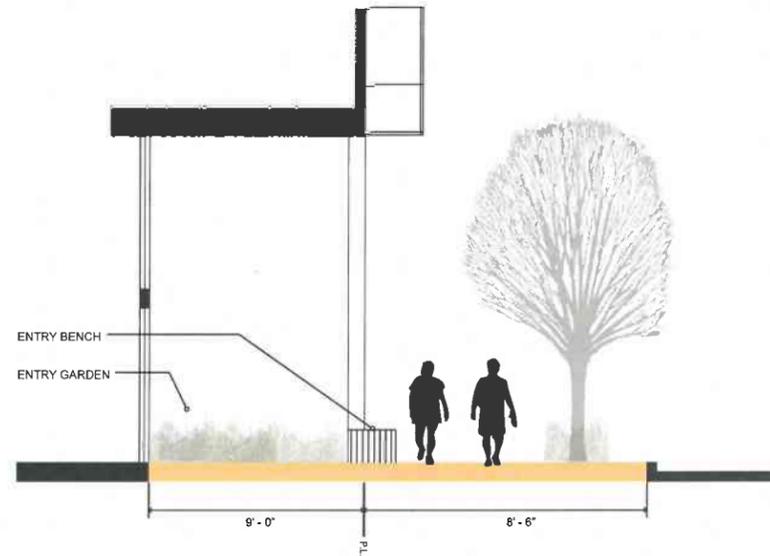
2051 THIRD STREET

SAN FRANCISCO, CA

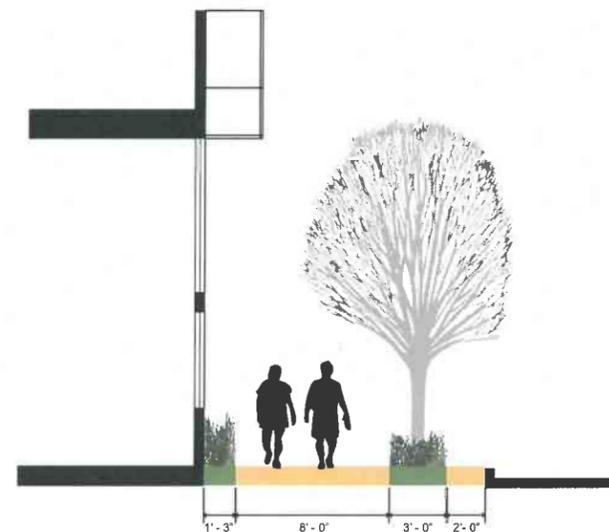
APRIL 10, 2014



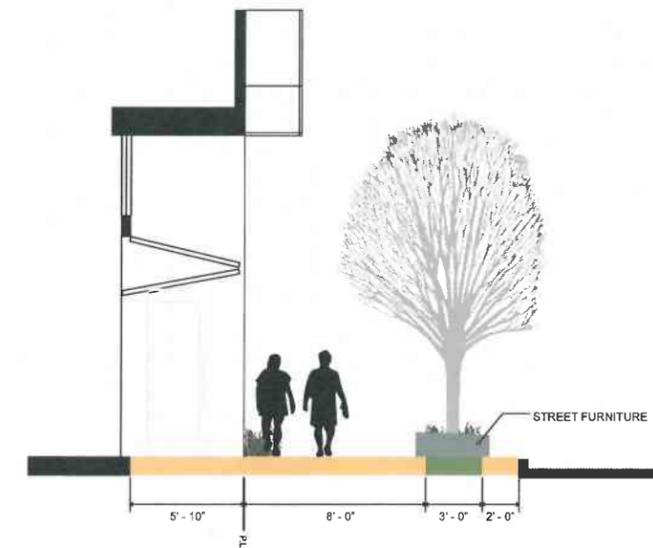
ILLINOIS STREET STREETSCAPE - PLAN
SCALE: 1/8" = 1'-0"



3RD STREET STREETSCAPE - SECTION A
SCALE: 1/4" = 1'-0"



ILLINOIS STREET STREETSCAPE - SECTION A
SCALE: 1/4" = 1'-0"



ILLINOIS STREET STREETSCAPE - SECTION B
SCALE: 1/4" = 1'-0"

ILLINOIS STREET PLAN AND SECTIONS

L4



ILLINOIS STREET PERSPECTIVE - LOBBY ENTRY AND DRIVEWAY

L5



2051 THIRD STREET

SAN FRANCISCO, CA

APRIL 10, 2014

ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREIN CONSTITUTE ORIGINAL AND UNPUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED, USED OR DISCLOSED WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.



ILLINOIS STREET PERSPECTIVE - FLEX SPACE

L6



2051 THIRD STREET

SAN FRANCISCO, CA APRIL 10, 2014

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Exhibit F

DECEMBER master plan
12/2013



Project Site

The Ramp

Kneass

Northern Shoreline

Third St

Illinois St

18th St

Bldg 49

14

Shipyard

Open Green

Maritime Fields

19th St

B 31

Slipway A

B 110

B 50

Bldg 109

109+110 Yard

Slipway 4

(crane plaza + keel park)

30

19th St extension

0 20 50 100ft



Illinois St

The Ramp
Restaurant

The Ramp
"patio"

overlook

plaza

cove

waterfront
walk

110'

sandy launch

95'

set-up
area

overlook

Slipway 3

Slipway 2

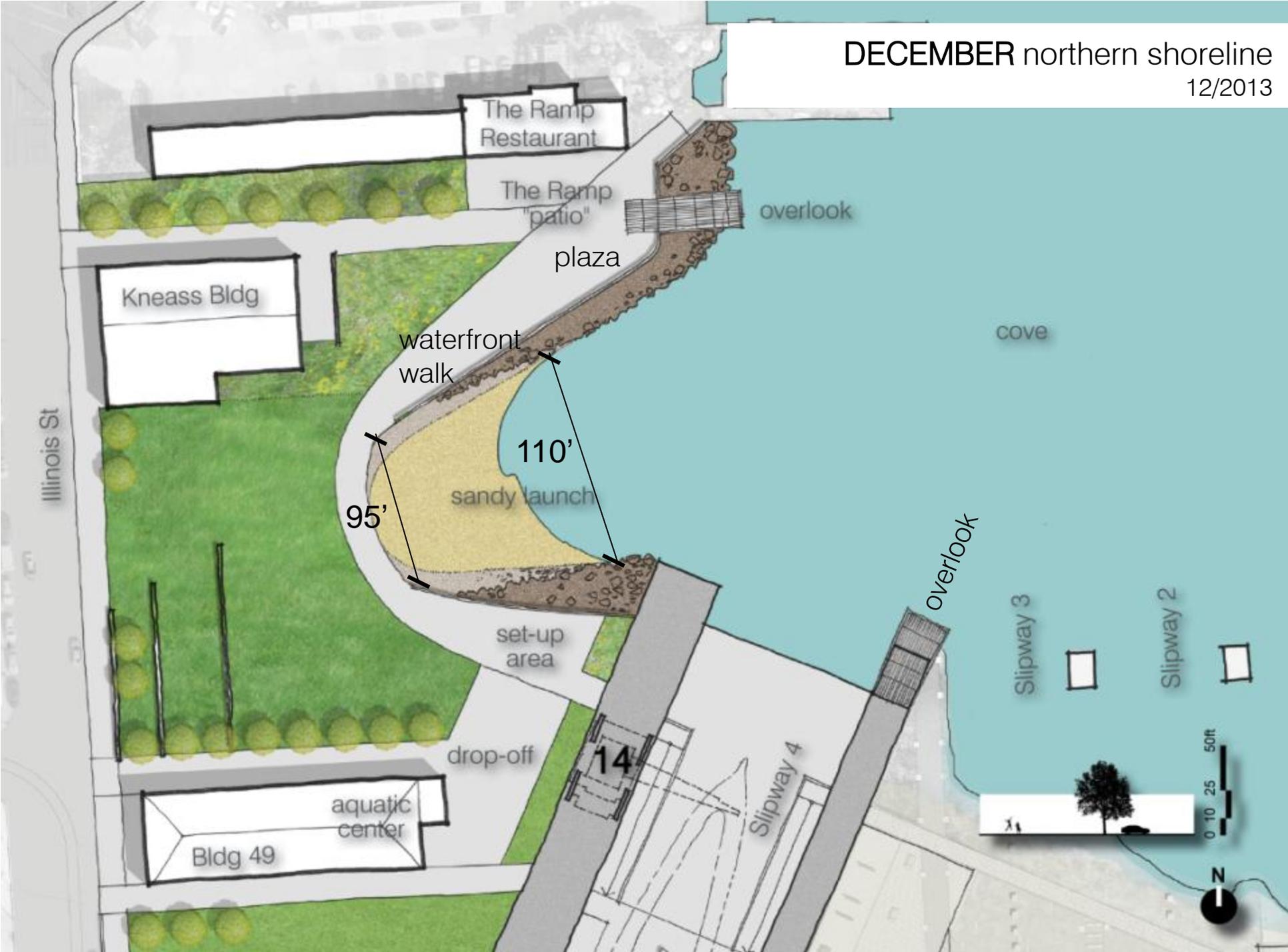
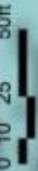
drop-off

14

Slipway 4

aquatic
center

Bldg 49



DECEMBER northern shoreline
12/2013



Exhibit G

1 [Landmark Designation nomination for **Mary Ellen Pleasant Trees** located at 1661 Octavia Street.]

2
3 **Resolution of intent initiating the nomination of the mature blue gum (*Eucalyptus globulus*)**
4 **trees located at 1661 Octavia Street (Assessor's Block 647 lot 002) for landmark tree status**
5 **pursuant to Public Works Code Section 810(b), acknowledging the temporary designation**
6 **of such tree pursuant to Public Works Section 810(d), and authorizing other official acts in**
7 **furtherance of the Resolution.**

8
9 WHEREAS, a landmark tree is a tree on private or public property that has **special**
10 **characteristics** including size, age, historical significance, and cultural value; and,

11 WHEREAS, **Mary Ellen Pleasant planted the trees** at 1661 Octavia Street giving them an
12 **important historical association**; and,

13 WHEREAS, Mary Ellen Pleasant, was a significant figure in San Francisco's history. Ms
14 Pleasant was a 19th Century female entrepreneur of partial African descent who used her fortune
15 to further abolition. She worked on the Underground Railroad across many states and then helped
16 bring it to California during the Gold Rush Era. She was a friend and financial supporter of John
17 Brown and well known in abolitionist circles. After the Civil War she took her battles to the courts
18 and won several civil rights victories, one of which was cited and upheld in the 1980's and
19 resulted in her being called, "The Mother of Human Rights in California"; and,

20 WHEREAS, Landmark trees have an especially prominent and beautiful visual impact and
21 are of notable size; and,

22 WHEREAS, these trees **have been profiled in print and other media coverage**, including
23 The Trees of San Francisco by Michael Sullivan; and,

24 WHEREAS, The Board of Supervisors passed Ordinance Number 17-06, an amendment
25 to Public Works Code - Sections 801, landmark trees, significant trees, and penalties for violations

1 in support of a landmark tree program a copy of said Ordinance is on file with the Clerk of the
2 Board of Supervisors in file number 051458 which is incorporated herein by reference; and,

3 WHEREAS, The City's Urban Forestry Council developed landmark tree designation
4 criteria, forms, and procedure and the Board of Supervisors, in Resolution Enacted Number 440-
5 06, adopted said criteria. A copy of such Resolution is on file with the Clerk of the Board of
6 Supervisors file Number 060487 which is incorporated herein by reference; and, be it

7 RESOLVED, The Board, pursuant to Public Works Code Section 810(b), hereby
8 adopts this Resolution of intent to initiate landmark tree designation for the mature blue gum
9 (Eucalyptus globulus) trees located at 1661 Octavia Street (Assessor's Block 647 lot 002), and
10 acknowledges the temporary designation of such tree for landmark tree status pursuant to Public
11 Works Code Section 810(d); and, be it,

12 FURTHER RESOLVED, The Board directs the Clerk to forward this Resolution and
13 accompanying documents contained in the file to the Urban Forestry Council to begin the
14 landmark tree designation process for the subject tree; and, be it,

15 FURTHER RESOLVED, The Board urges the Director of Public Works to immediately
16 notify the affected property owner of the pending nomination and inform said owner of the special
17 permit and approval requirements for removal of landmark trees under Public Works Code
18 Section 810(f) if such notification has not yet occurred.



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Resolution

File Number: 071405

Date Passed:

Resolution of intent initiating the nomination of the mature blue gum (*Eucalyptus globulus*) trees located at 1661 Octavia Street (Assessor's Block 647 lot 002) for landmark tree status pursuant to Public Works Code Section 810(b), acknowledging the temporary designation of such tree pursuant to Public Works Section 810(d), and authorizing other official acts in furtherance of the Resolution.

October 16, 2007 Board of Supervisors — ADOPTED

Ayes: 9 - Alioto-Pier, Ammiano, Elsbernd, Chu, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

Absent: 2 - Daly, Dufty

File No. 071405

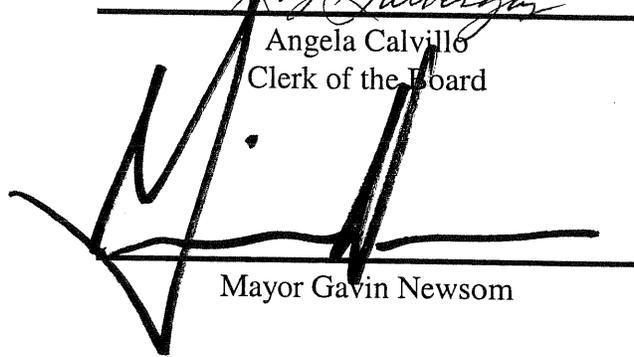
I hereby certify that the foregoing Resolution was ADOPTED on October 16, 2007 by the Board of Supervisors of the City and County of San Francisco.

10/22/2007

Date Approved



Angela Calvillo
Clerk of the Board



Mayor Gavin Newsom

Exhibit H

Impact to Site Plan



Exhibit I



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|---|---|
| <input checked="" type="checkbox"/> Affordable Housing (Sec. 415) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input checked="" type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input checked="" type="checkbox"/> Other (EN Impact Fee – Sec. 423) |

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

Reception:
415.558.6378

Planning Commission Motion No. 19165

HEARING DATE: JUNE 5, 2014

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date: May 29, 2014
Case No.: 2010.0726X
Project Address: 2051 3rd Street
Zoning: UMU (Urban Mixed Use) Zoning District
68-X Height and Bulk District
Block/Lots: 3994/001B, 001C and 006
Project Sponsor: Raintree Partners
28202 Cabot Road, Suite 300
Laguna Niguel, CA 92667
Staff Contact: Doug Vu – (415) 575-9120
Doug.Vu@sfgov.org

ADOPTING FINDINGS RELATING TO A LARGE PROJECT AUTHORIZATION PURSUANT TO PLANNING CODE SECTION 329, TO ALLOW EXCEPTIONS TO (1) REAR YARD PURSUANT TO PLANNING CODE SECTION 134, (2) OPEN SPACE PURSUANT TO PLANNING CODE SECTION 135, (3) AND ACCESSORY USE PROVISIONS FOR DWELLING UNITS PURSUANT TO PLANNING CODE SECTIONS 329(D)(10) AND 803.3(B)(1)(C), TO ALLOW CONSTRUCTION OF A NEW SIX-STORY, 68-FOOT TALL 108,790 GSF RESIDENTIAL BUILDING WITH 93 DWELLING UNITS LOCATED AT 2051 3RD STREET, LOTS 001B, 001C AND 006 IN ASSESSOR'S BLOCK 3994, WITHIN THE UMU (URBAN MIXED-USE) ZONING DISTRICT AND A 68-X HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On June 14, 2012, Raintree Partners (Project Sponsor) filed an application with the Planning Department (hereinafter "Department") for Large Project Authorization under Planning Code Section 329 to allow construction of a new six-story, 68-foot tall residential building consisting of 94 dwelling units, parking for up to 74 spaces, and exceptions including rear yard, open space and street frontage within the UMU (Urban Mixed Use) Zoning District and within a 68-X Height and Bulk District.

The environmental effects of the Project were determined by the San Francisco Planning Department to have been fully reviewed under the Eastern Neighborhoods Area Plan Environmental Impact Report (hereinafter "EIR"). The EIR was prepared, circulated for public review and comment, and, at a public

hearing on August 7, 2008, by Motion No. 17661, certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., (hereinafter "CEQA"). The Commission has reviewed the Final EIR, which has been available for this Commission's review as well as public review.

The Eastern Neighborhoods EIR is a Program EIR. Pursuant to CEQA Guideline 15168(c)(2), if the lead agency finds that no new effects could occur or no new mitigation measures would be required of a proposed project, the agency may approve the project as being within the scope of the project covered by the program EIR, and no additional or new environmental review is required. In approving the Eastern Neighborhoods Plan, the Commission adopted CEQA Findings in its Motion No. 17661 and hereby incorporates such Findings by reference.

Additionally, State CEQA Guidelines Section 15183 provides a streamlined environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that (a) are peculiar to the project or parcel on which the project would be located, (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR, or (d) are previously identified in the EIR, but which are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for that project solely on the basis of that impact.

On December 3, 2013, the Department determined that the proposed application did not require further environmental review under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3. The Project is consistent with the adopted zoning controls in the Eastern Neighborhoods Area Plan and was encompassed within the analysis contained in the Eastern Neighborhoods Final EIR. Since the Eastern Neighborhoods Final EIR was finalized, there have been no substantial changes to the Eastern Neighborhoods Area Plan and no substantial changes in circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR. The file for this project, including the Eastern Neighborhoods Final EIR and the Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California.

Planning Department staff prepared a Mitigation Monitoring and Reporting Program (MMRP) setting forth mitigation measures that were identified in the Eastern Neighborhoods Plan EIR that are applicable to the project. These mitigation measures are set forth in their entirety in the MMRP attached to the draft Motion as Exhibit C.

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2010.0726X at 1650 Mission Street, Fourth Floor, San Francisco, California.

On March 6, 2014, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Large Project Authorization Application No. 2010.0726X and continued the item to the June 5, 2014 public hearing at the request of the Project Sponsor.

On May 15, 2014, the Project Sponsor amended the application with the Planning Department for Large Project Authorization under Planning Code Section 329 to allow construction of a new six-story, 68-foot tall residential building consisting 93 dwelling units and parking for up to 74 spaces, and exceptions including rear yard and open space within the UMU (Urban Mixed Use) Zoning District and within a 68-X Height and Bulk District.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Large Project Authorization requested in Application No. 2010.0726X, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The proposed project is located mid-block on three adjoining lots (3994/001B, 001C, and 006) with a combined area of approximately 19,387 sq. ft. between Mariposa, Illinois, 18th and 3rd Streets in the City's Dogpatch neighborhood. The three lots would be merged as part of the project, and as a result will have 107-feet of frontages along both 3rd and Illinois Streets, with a depth of 180 feet. The two existing industrial buildings at 2051 and 2065 3rd Streets were constructed in 1927 and 1926, respectively, total 15,041 sq. ft. in area, and range in height from 12 to 25 feet. The site is also located within the Central Waterfront Subarea of the Eastern Neighborhoods Plan.
3. **Surrounding Properties and Neighborhood.** The blocks surrounding the project site include a wide range of building types, heights, and uses typically found in an Urban Mixed Use (UMU) zoning district, including residential uses. The wide 3rd Street median contains the light rail line for the Muni T train. The area east of Illinois Street consists of a Port of San Francisco shipyard where 19th and Illinois Streets intersect. A mixture of commercial, mixed residential/commercial, live/work, and industrial buildings on the adjacent block faces range from one to five stories, and approximately 15 to 65 feet in height. The topography in the area slopes downward from Potrero Hill on the west to the San Francisco Bay on the east. 3rd Street is at the bottom of Potrero Hill, although the topography continues to drop approximately twelve feet in elevation across the project site from 3rd Street to Illinois Street. The adjacent property to the south at 680 Illinois Street is a five-story, 35-dwelling Planned Unit Development approved by the Planning Commission in 2005 and completed in 2012. The other adjacent property to the north at 2011 3rd

Street is a 50-foot tall, twelve-unit live/work building that was completed in 1997. The San Francisco Carpenters Union office building is located two properties to the south at 2085 3rd Street.

4. **Project Description.** The proposed project includes the demolition of the existing structures on three separate lots, and new construction of a six-story, 68-foot tall residential building (approximately 108,790 square feet) with 93 dwelling units that include 2,165 sq. ft. of flex space, 74 off-street parking spaces, and 93 Class 1 bicycle parking spaces. The project includes a dwelling unit mix consisting of 33 studios, 22 one-bedroom units, 35 two-bedroom units, and three three-bedroom units. The proposed project includes common open space (approximately 7,939 sq. ft.), private open space for seven units via decks and balconies, and publicly accessible open space (approximately 962 sq. ft.) along the 3rd Street frontage.
5. **Public Comment.** The Department has received twelve letters of support for the project, including from the Dogpatch Neighborhood Association and the San Francisco Housing Action Coalition. The Department has also received two letters of opposition identifying concerns about the scale of the project in relation to neighboring properties that is inconsistent with the Industrial Area Design Guidelines, its shadow impacts to the anticipated Crane Cove Park, and the loss of property line windows to the adjacent building at 610 Illinois Street. The Department has also received general inquiries from members of the public expressing concerns regarding the timing of construction, views, light and air, and the justification for granting the proposed rear yard and open space exceptions.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Permitted Uses in UMU Zoning Districts.** Planning Code Section 843.20 states that residential uses are principally permitted within the UMU Zoning District.

The Project would construct new residential uses within the UMU Zoning District, and therefore complies with Planning Code Sections 843.20.
 - B. **Rear Yard.** Planning Code Section 134 requires a minimum rear yard equal to 25 percent of the total lot depth beginning at the lowest story containing a dwelling unit.

The Project does not comply with the rear yard requirement and is seeking an exception as part of the Large Project Authorization (See discussion below).
 - C. **Usable Open Space.** Planning Code Section 135 requires that usable open space be located on the same lot as the dwelling units it serves. At least 80 square feet of usable open space per dwelling unit, or 54 square feet per dwelling unit of publicly accessible open space, is required. Up to 50 percent of the publicly accessible open space may be provided off-site. The Project has a residential open space requirement of 7,440 square feet of usable open space if private, or 5,022 square feet of publicly accessible open space.

Although the total proposed open space (11,578 square feet) exceeds the requirement, approximately 3,708 square feet of the open space does not meet the dimensional requirements for usable open space.

Therefore, the Project does not comply with the open space requirement and is seeking an exception as part of the Large Project Authorization (See discussion below).

- D. **Streetscape and Pedestrian Improvements.** Planning Code Section 138.1 requires improvement of the public right-of-way associated with development projects. The owner or developer of a new building in this District must install street trees. Each street tree must be a minimum of 24-inch box for every 20 feet of frontage of the property along each street or public alley with any remaining fraction of ten feet or more of frontage requiring an additional tree. Planning Code Section 138.1 also requires streetscape and pedestrian elements in conformance with the Better Streets Plan when a project is on a lot that is greater than ½-acre in total area and the project includes new construction.

The project requires five street trees at each of the 3rd and Illinois Street frontages. The project proposes six street trees at each of the 3rd and Illinois Street frontages, which complies with this provision.

- E. **Bird-Safe Standards.** Planning Code Section 139 outlines bird-safe standards for new construction to reduce bird mortality from circumstances that are known to pose a high risk to birds and are considered to be "bird hazards." Feature-related hazards may create increased risk to birds and need to be mitigated. The project site is not located within an urban bird refuge.

The Project meets the requirements of Planning Code Section 139 and does not contain any feature-related hazards such as free-standing glass walls, wind barriers, or balconies that have unbroken glazed segments 24 square feet or larger in size.

- F. **Dwelling Unit Exposure.** Planning Code Section 140 requires dwelling units to have at least one window facing a street or alley, a Code-complying rear yard, open space or inner court.

All proposed dwelling units enjoy ample light and air with the proposed inner court yard, and 43 units face either 3rd or Illinois Streets, meeting the dimensional and square footage requirements for dwelling unit exposure.

- G. **Street Frontages.** Planning Code Section 145.1 requires the following for street frontages in Eastern Neighborhood Mixed Use Districts: (1) not more than 1/3 the width of the building facing the street may be devoted to ingress/egress to parking; (2) off-street parking at street grade must be set back at least 25 feet; (3) "active" use shall be provided within the first 25 feet of building depth at the ground floor; (4) ground floor non-residential uses in UMU zoning district shall have a floor-to-floor height of 17-feet; (5) frontages with active uses shall be fenestrated with transparent windows; and, (6) decorative railings or grillwork placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular views.

The project complies with the requirements of Section 145.1 as follows: (1) providing one 12-foot wide garage opening, which totals less than 1/3 the width of the approximately 105-foot wide building; (2) the off-street parking at street grade is set back at least 35 feet from Illinois Street; (3) incorporating active uses on all street frontages, including commercial, dwellings with stoops and flex units within the first 25 feet of the building depth at ground floor; (4) providing a floor-to-floor ground floor height of 18 feet for the commercial frontage; and, (5) providing transparent windows at the ground floor.

- H. **Shadow.** Planning Code Section 147 requires reduction of substantial shadow impacts on public plazas and other publicly accessible spaces other than those protected under Planning Code Section 295. Section 295 restricts new shadow, cast by structures exceeding a height of 40 feet, upon property under the jurisdiction of the Recreation and Park Commission.

The Shadow Analysis conducted for the Project indicates that the Project will not cast shadow upon any existing Public, Publicly Accessible or Publicly Financed or Subsidized Open Space under Planning Code Section 147. Crane Cove Park is an approximately nine acre site that is identified for development as a future park within the Port of San Francisco's Pier 70 Area, the former Union Iron Works/Bethlehem Steel Shipyard. Although a Draft Master Plan and Conceptual Plans have been developed, the project has not been reviewed and adopted by the Port Commission and other stakeholders. Additionally, the Project will not cast any shadows upon property under the jurisdiction of the Recreation and Park Commission.

- I. **Off-Street Parking.** Planning Section 151.1 allows for provision of up to three parking spaces for each four dwelling units. Additionally, up to one parking space is permitted for each dwelling unit that is two or more bedrooms and at least 1,000 square feet of occupied floor area, subject to the requirements of Sections 151.1(g) below. No additional parking is permitted above these amounts.

(1)(A) Parking for All Uses.

- (i) Vehicle movement on or around the project does not unduly impact pedestrian spaces or movement, transit service, bicycle movement, or the overall traffic movement in the district;
- (ii) Accommodating excess accessory parking does not degrade the overall urban design quality of the project proposal;
- (iii) All above-grade parking is architecturally screened and lined with active uses according to the standards of Section 145.1, and the project sponsor is not requesting any exceptions or variances requiring such treatments elsewhere in this Code; and
- (iv) Excess accessory parking does not diminish the quality and viability of existing or planned streetscape enhancements.

The project proposes one twelve-foot wide vehicular access to its subterranean parking garage, therefore minimizing any impact to pedestrian spaces or movement. All parking spaces are provided underground, not visible from the street and with mechanical stackers. The proposed bicycle parking is at the ground level and will be accessible through the building lobby. The project proposes ample quality street scape improvements and active uses on the ground floor to enhance the pedestrian space and experience.

(B) Parking for Residential Uses.

- (i) For projects with 50 dwelling units or more, all residential accessory parking in excess of 0.5 spaces per unit shall be stored and accessed by mechanical stackers or lifts, valet, or other space-efficient means that reduces space used for parking and maneuvering, and maximizes other uses.

Based on the proposed dwelling unit mix, the maximum number of parking spaces permitted is 80, or a parking ratio of approximately .85 spaces per dwelling unit. The project proposes 74 parking spaces, or a parking ratio of approximately .80 spaces per dwelling unit, accessible with mechanical stackers. Therefore, the project complies with the principally permitted parking amounts.

- J. **Off-Street Loading.** Planning Code Section 152.1 requires no off-street freight loading spaces for a residential use in UMU Districts when the gross floor area is less than 100,000 square feet, and no loading space for a commercial use less than 10,000 square feet.

With approximately 90,000 gross square feet of residential use, the project requires no off-street loading spaces. However, one loading space at curbside facing Illinois Street has been proposed.

- K. **Bicycle Parking.** Planning Code Section 155.2 requires one Class One bicycle space for each dwelling unit and one Class Two space for every 20 dwelling units.

The proposed total number of 93 dwelling units requires a total of 93 Class One bicycle parking spaces and five Class Two spaces. The project complies with this requirement by providing up to 94 Class One bicycle parking spaces and eight Class Two spaces.

- L. **Car Share.** Planning Code Section 166 requires one space for projects proposing dwelling units between 50 and 200.

One car share space is required for the proposed 93 dwelling units. The project exceeds the minimum requirement by providing three car share spaces.

- M. **Unbundled Parking.** Planning Code Section 167 requires that all off-street parking spaces accessory to residential uses in new structures of 10 dwelling units or more be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units.

The off-street parking spaces provided for the dwelling units will be unbundled and sold and/or leased separately from the dwelling units. Therefore, the Project meets this requirement.

- N. **Dwelling Unit Mix.** Planning Code Section 207.6 requires at least 40 percent of the total number of proposed dwelling units to contain two or more bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole number of dwelling units.

The Project will provide 41 percent of the dwelling units as 2-bedroom units or larger (38 units).

- O. **Height Limit.** Planning Code Section 260 requires that the height of buildings not exceed the limits specified in the Zoning Map and defines rules for the measurement of height. The Project Site is within a 68-foot Height District.

The Project complies with this requirement as the height of the building does not exceed 68 feet.

- P. **Inclusionary Affordable Housing Program.** Planning Code Section 419 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 419.3, these requirements would apply to projects that consist of ten or more units. The Project Sponsor has stated its intent to pursue the Rental Incentive alternative available to qualifying projects in the Urban Mixed Use District within Eastern Neighborhoods (UMU) under Planning Code Sections 415.5, 415.6 and 419.5(b). The Rental Incentive provides that projects which enter into an agreement with the City to provide all of the units in the Project as rental units for 30 years from the issuance of the certificate of occupancy shall receive two incentives: (1) a 3% reduction in its on-site inclusionary housing requirement (here from 16% to 13%) and (2) a \$1 per gross square foot reduction in its Eastern Neighborhoods Public Benefit Fee. While the Department supports this concept in general, under the current Code, the project sponsor must have the agreement to provide rental housing for 30 years approved by the Board of Supervisors. Per Planning Code Section 419.3(b)(2), the project site is subject to the "Tier B" requirements.

The Project Sponsor has entered into an agreement with the City to provide rental housing for 30 years under Section 419.5(b) of the Planning Code. The Project Sponsor and the City have entered into such an agreement; therefore the applicable requirements are a 13% inclusionary housing requirement and there is a \$1 per gross square foot reduction in the Eastern Neighborhood Public Benefit Fee. If the Agreement is terminated or the units otherwise sold prior to the expiration of the 30 year period, the inclusionary requirement will return to 16% and the Project Sponsor and its Successor must pay the \$1 per square foot Eastern Neighborhoods Public Benefit Fee. Both requirements would be subject to interest and/or penalties as allowed by law. The Project contains 93 units; therefore the Project Sponsor will fulfill this requirement by providing twelve affordable units on site. If the number of market rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development.

- Q. **Eastern Neighborhoods Infrastructure Impact Fees.** The project shall comply with the provisions of Planning Code Section 423, including payment of the Eastern Neighborhoods Impact Fee, or execution of an In-Kind Agreement with the Planning Department prior to issuance of the first site or building permit.

The Project includes approximately 108,790 gross square feet of new development consisting of approximately 93,176 square feet of residential use. This use is subject to the Eastern Neighborhoods Infrastructure Impact Fees, as outlined in Planning Code Section 423. These fees must be paid by the Project Sponsor prior to the issuance of the building permit application.

7. **Large Project Authorization in Eastern Neighborhoods Mixed Use District.** Planning Code Section 329(c) lists nine aspects of design review in which a project must comply; the Planning Commission finds that the project is compliant with these nine aspects as follows:

- A. Overall building massing and scale;

The Project conforms to the applicable height and bulk requirements. The community in the vicinity of the Project is constantly evolving with development in the Central Waterfront region and the recent Eastern Neighborhoods Area Plans, and contains a range of building masses. The project, with

residential and flex space will be consistent with the existing and evolving character of the area. The Project's massing will improve the character of the neighborhood and improve general pedestrian accessibility. Furthermore, from a visual perspective, the massing and scale are generally consistent with the neighboring buildings. Two recent developments at 680 Illinois and 740 Illinois Streets proposed similar building mass and scale.

B. Architectural treatments, facade design and building materials;

The architecture of this Project responds to the site's location between the industrial nature of the Central Waterfront and the contemporary architecture of the residential buildings and lofts toward the bottom of Potrero Hill. The Project's facades all present fenestration patterns and scale similar to the expressed frame of residential and industrial uses common in the area. The exterior is designed with modern materials including resin, cement, and metal panels, aluminum windows, and stone. Additionally, the metal punched window openings and balconies with cement plaster recesses provide a stimulating and visually interesting form from the public right-of-way. Variations in fenestration and treatment of the building facades allow the architecture to read as distinct pieces of a whole.

C. The design of lower floors, including building setback areas, commercial space, townhouses, entries, utilities, and the design and siting of rear yards, parking and loading access;

The ground floor character of the building is active with residential and retail oriented flex spaces along 3rd and Illinois Streets, and exposed residential entries along Illinois Street as expressed by the architecture of the building via recessed entries. The residential flex spaces, lobbies, and community spaces are carved out at the ground floor, inviting pedestrians and providing an opportunity for outdoor seating. The residential flex spaces have 17-foot clear ceiling heights at the ground floor, and curb cuts are minimized to one twelve-foot wide parking access point facing Illinois Street for the entire project. Street trees along all street frontages are proposed as required by the Planning Code, with the exception of areas adjacent to the building entries and the vehicular access point.

D. The provision of required open space, both on- and off-site. In the case of off-site publicly accessible open space, the design, location, access, size, and equivalence in quality with that otherwise required on-site;

The Project provides 1,972 square feet of private usable open space on the building's roof and courtyard for seven dwelling units. Approximately 5,898 square feet of usable common open space is provided on the building's roof deck, and an additional 2,934 square feet of private and common open space is provided on balconies and in the courtyard. Furthermore, 893 square feet of publicly accessible open space is provided at grade adjacent to 3rd Street. Although the additional 2,934 square feet of proposed open space on balconies and in the courtyard does not meet the literal dimensional requirements of the Planning Code, the total 11,578 square feet of open spaces provided on-site exceed the square footage required and are quality usable spaces.

E. Streetscape and other public improvements, including tree planting, street furniture, and lighting;

The Project proposes the installation of twelve street trees along both frontages and open spaces, and sidewalk improvements.

F. Circulation, including streets, alleys and mid-block pedestrian pathways;

The Project proposes only one twelve-foot wide ingress/egress access at Illinois Street and is not anticipated to create circulation problems. No other ingress/egress is proposed anywhere to prevent possible conflicts and congestion.

G. Bulk limits;

The Project site is located in an X Bulk District, which provides no bulk restrictions.

I. Other changes necessary to bring a project into conformance with any relevant design guidelines, Area Plan or Element of the General Plan.

The Project generally meets the Objectives and Policies of the General Plan and noted in Finding 9 below.

8. **Exceptions.** Proposed Planning Code Section 329 allows exceptions for Large Projects in the Eastern Neighborhoods Mixed Use Districts.

A. Planning Code Section 134 requires a minimum rear yard equal to 25 percent of the total lot depth beginning at the lowest story containing a dwelling unit. The subject property is a rectangular lot with two frontages and two publicly accessible mews. Planning Code Section 329(d) allows an exception for the rear yard requirement pursuant to requirements of Planning Code Section 134(f).

1. Residential uses are included in the new or expanding development and a comparable amount of readily accessible usable open space is provided elsewhere on the lot:

The Project is occupied by a residential uses including flex units, and a comparable amount of readily accessible open space. Per the Planning Code, the required rear yard should equal 25 percent of the lot area, which is approximately 4,725 square feet for this property. The proposed roof deck (6,725 s.f.) inner courtyard (3,186 s.f.), and private balconies (774 s.f.) combine to provide approximately 10,685 square feet of accessible open space.

2. The proposed new or expanding structure will not significantly impede the access to light and air from adjacent properties:

The Project will merge three underutilized lots and create a through lot fronting 3rd and Illinois Streets. The proposed inner court yard will connect with court yards from the adjacent residential buildings, will preserve access to light and air, and will result in no significant impediment on light and air to adjacent properties.

3. The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yards of adjacent properties:

The Project proposes an inner court yard that connects with and compliments the court yards from the adjacent residential buildings. The collective inner courtyards constitute a mid-block open space. The subject site currently provides no inner courtyard as the existing buildings have nearly full lot coverage.

- B. Planning Code Section 135 requires that usable open space be located on the same lot as the dwelling units it serves. At least 80 square feet of usable open space per dwelling unit, or 54 square feet per dwelling unit of publicly accessible open space, is required. Up to 50 percent of the publicly accessible open space may be provided off-site. The Project has a residential open space requirement of up to 7,520 square feet of usable open space if private, or 5,076 square feet of publically accessible open space.

Although the total proposed open space (10,685 square feet) exceeds the requirement, the approximately 3,186 square feet of the open space (inner courtyard) does not meet the dimensional requirements. However, the inner court yard is of significant size and appropriate design to provide quality usable open space.

- C. Modification of the accessory use provisions of Section 803.3(b)(1)(c) for dwelling units. Dwelling units modified under this Subsection shall continue to be considered dwelling units for the purposes of the Code and shall be subject to all such applicable controls and fees. Additionally, any building which receives a modification pursuant to this Subsection shall be subject to the following:

(i) A modification may only be granted for the ground floor portion of dwelling units that front on a street with a width equal to or greater than 40 feet.

The Project seeks modification for one two-bedroom, and two one-bedroom units on the ground floor fronting on 3rd and Illinois Streets, respectively.

(ii) The accessory use may only include those uses permitted as of right at the subject property. However, uses permitted in any unit obtaining an accessory use modification may be further limited by the Planning Commission.

The Project will only include accessory uses that are principally permitted uses in the UMU Zoning District. The anticipated uses will either be retail or home office.

(iii) The Planning Commission may grant exceptions to the size of the accessory use, type and number of employees, and signage restrictions of the applicable accessory use controls.

The Project is seeking modification to the accessory use provisions for dwelling units to allow for greater flexibility in the size of an accessory use on the ground floor level only, to provide for a limited number of employees, and to allow for public access.

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING

Objectives and Policies

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.1

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

The Project is a high density mixed-use development in an underutilized, transitioning industrial area. The Project site is a large opportunity site that is currently used as an exhibition space. The area around the Project site was recently rezoned to UMU as part of a long range planning goal to create a cohesive, high density residential and mixed-use neighborhood. The project includes twelve on-site affordable housing units and also provides residential flex units for commercial spaces.

OBJECTIVE 11

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.1

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Policy 11.4

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

Policy 11.6

Foster a sense of community through architectural design, using features that promote community interaction.

Policy 11.8

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

The architecture of this Project responds to the site's location and provides a design that blends the industrial and the contemporary architecture of residential and loft buildings. The Project's facades all present fenestration patterns and scale similar to the expressed frame of residential and industrial uses common in the area. The exterior is designed with modern materials including resin, cement, and metal panels, aluminum windows, and stone. Additionally, the metal punched window openings and balconies

with cement plaster recesses provide a stimulating and visually interesting form from the public right of way. Variations in fenestration and treatment of the building facades allow the architecture to read as distinct pieces of a whole.

RECREATION AND OPEN SPACE ELEMENT

Objectives and Policies

OBJECTIVE 4:

PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.

Policy 4.5:

Require private usable outdoor open space in new residential development.

Policy 4.6:

Assure the provision of adequate public open space to serve new residential development.

The Project will create private outdoor open spaces in a new residential mixed-use development through private balconies, a courtyard, roof deck, and ground floor open spaces. It will not cast shadows over any open spaces under the jurisdiction of the Recreation and Park Department.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 24:

IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

Policy 24.2:

Maintain and expand the planting of street trees and the infrastructure to support them.

Policy 24.3:

Install pedestrian-serving street furniture where appropriate.

Policy 24.4:

Preserve pedestrian-oriented building frontages.

The Project will install street trees at approximately 20 foot intervals along the frontages on 3rd and Illinois Streets. Frontages are designed with active spaces oriented at the pedestrian level that have a 17 foot clear ceiling height.

OBJECTIVE 28:

PROVIDE SECURE AND CONVENIENT PARKING FACILITIES FOR BICYCLES.

Policy 28.1:

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

Policy 28.3:

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

The Project includes 94 Class One bicycle parking spaces in secure, convenient locations on the ground floor and eight Class Two spaces in the public right of way.

OBJECTIVE 34:

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

Policy 34.1:

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

Policy 34.3:

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

Policy 34.5:

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

The Project has a parking to dwelling unit ratio of .80 spaces per unit, below the maximum permitted ratio of 0.85. The parking spaces are accessed by one ingress/egress point at Illinois Street. Parking is adequate for the project and complies with maximum prescribed by the Planning Code.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.7:

Recognize the natural boundaries of districts, and promote connections between districts.

OBJECTIVE 2:

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

Policy 2.6:

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

The existing industrial buildings are not compatible with the visual character of the neighborhood. The Project serves as a visual transition from the residential character to the west and the industrial uses to the east. The Proposal will bring the Subject Property into greater conformity with the existing neighborhood character, and is complementary to the massing and scale of the adjacent buildings. The 93 new units of housing will provide a greater housing choice for residents.

OBJECTIVE 4:

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.5:

Design walkways and parking facilities to minimize danger to pedestrians.

Policy 4.13:

Improve pedestrian areas by providing human scale and interest.

While the subject lot has two 107-foot street frontages, it only proposes one vehicular access point for the entire project, limiting conflicts with pedestrians and bicyclists. A minimum of six street trees will be planted on each street frontage. Ample active frontages, public and private open spaces, ground floor active uses, and ground floor flexible occupancy units directly accessing the street will be provided. The pedestrian experience along the Project site will be improved with widening of the sidewalk along 3rd Street.

CENTRAL WATERFRONT AREA PLAN

Objectives and Policies

Land Use

OBJECTIVE 1.2:

IN AREAS OF THE CENTRAL WATERFRONT WHERE HOUSING AND MIXED USE IS ENCOURAGED, MAXIMIZE DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER.

Policy 1.2.1:

Ensure that in-fill housing development is compatible with its surroundings.

Policy 1.2.4

In general, where residential development is permitted, control residential density through building height and bulk guidelines and bedroom mix requirements implementation.

The project proposes development on existing underutilized parcels by merging them and introducing new rental housing with affordable units. The proposed density is the maximum allowed in order to ensure

quality and livability of the units through controlled height and unit mix requirements, and 41% of the unit mix includes two and three-bedroom units..

Housing

OBJECTIVE 2.3

ENSURE THAT NEW RESIDENTIAL DEVELOPMENTS SATISFY AN ARRAY OF HOUSING NEEDS WITH RESPECT TO TENURE, UNIT MIX AND COMMUNITY SERVICES.

Policy 2.3.2

Prioritize the development of affordable family housing, both rental and ownership, particularly along transit corridors and adjacent to community amenities.

Policy 2.3.3

Require that 40 percent of all units in new developments have two or more bedrooms and encourage that at least 10 percent of all units in new development have three or more bedrooms, except Senior Housing and SRO developments.

The project proposes rental housing with a minimum of 41 percent of its total units containing two and three-bedroom units.

Built Form

OBJECTIVE 3.1

PROMOTE AN URBAN FORM THAT REINFORCES THE CENTRAL WATERFRONT'S DISTINCTIVE PLACE IN THE CITY'S LARGER FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.

Policy 3.1.9

New development should respect existing patterns of rear yard open space. Where an existing pattern of rear yard open space does not exist, new development on mixed-use-zoned parcels should have greater flexibility as to where open space can be located.

Although there is no prevailing pattern of rear yard or open space on the subject block, the project proposes an 6,725 s.f. roof deck and an interior court that breaks up the building mass, continues the connection to adjacent inner courtyards, and provides quality light and air for the dwelling units.

OBJECTIVE 3.2

PROMOTE AN URBAN FORM AND ARCHITECTURAL CHARACTER THAT SUPPORTS WALKING AND SUSTAINS A DIVERSE, ACTIVE AND SAFE PUBLIC REALM.

Policy 3.2.1

Require high quality design of street-facing building exteriors.

The Project provides strong, repeating vertical articulation to achieve the visual presence necessary to sustain pedestrian interest and activity. Massing is differentiated with notches, recesses, projections and an interior court yard. The proposed fenestration represents the uses behind them, in this case, residential and commercial flex units, minimizes visual clutter, harmonizes with prevailing conditions, and provides

architectural interest. Proposed windows are recessed and are generally oriented vertically with metal frames.

OBJECTIVE 4.1

IMPROVE PUBLIC TRANSIT TO BETTER SERVE EXISTING AND NEW DEVELOPMENT IN CENTRAL WATERFRONT.

Policy 4.1.5

Reduce existing curb cuts where possible and restrict new curb cuts to prevent vehicular conflicts with transit on important transit and neighborhood commercial streets.

The proposed curb cut is not located along the 3rd Street façade, which is a pedestrian and transit oriented street. Ground floor residential units and flex units with recessed entries are proposed on both 3rd and Illinois Street façades, where it is important to maintain continuous active ground floor activity, protect pedestrian movement and retail viability, and reduce transit delay and variability.

OBJECTIVE 4.8

ENCOURAGE ALTERNATIVES TO CAR OWNERSHIP AND THE REDUCTION OF PRIVATE VEHICLE TRIPS.

Policy 4.8.1

Continue to require car-sharing arrangements in new residential and commercial developments, as well as any new parking garages.

The project provides three car share spaces, exceeding the Code's requirement for one car space.

Streets and Open Space

OBJECTIVE 5.2

ENSURE THAT NEW DEVELOPMENT INCLUDES HIGH QUALITY PRIVATE OPEN SPACE.

Policy 5.2.1

Require new residential and mixed-use residential development to provide on-site private open space designed to meet the needs of residents.

Policy 5.2.2

Encourage private open space to be provided as common spaces for residents and workers of the building wherever possible.

The Project includes a roof terrace of approximately 6,725 square feet. Although the proposed interior courtyard does not meet the minimum dimensional requirements, it provides a large and unobstructed quality usable open space of approximately 3,186 additional square feet,

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

There are no existing neighborhood-serving retail uses on the site. The Project will provide approximately 2,165 square feet of ground floor flex spaces adequate for various commercial uses, including neighborhood serving retail, which will create opportunities for local resident employment and ownership opportunities.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

No housing exists on the project site. The project will provide up to 93 new dwelling units, which will significantly increase the neighborhood housing stock. The design of the Project is compatible with the surrounding neighborhood. For these reasons, the proposed project would protect and preserve the cultural and economic diversity of the neighborhood.

- C. That the City's supply of affordable housing be preserved and enhanced.

The Project will not displace any affordable housing because there is currently no housing on the site. The Project will comply with the City's Inclusionary Housing Program by providing twelve BMR units, therefore increasing the stock of affordable housing units in the City.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The project site is well-served by public transportation. The 3rd Street Light Rail is directly in front of the project site at the 3rd Street façade. The majority of future residents are expected to use alternative methods of transportation other than private automobiles, and the number of vehicle trips generated by this project would not impede MUNI transit service or overburden streets.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The Project does not include any commercial office development as proposed. The proposal, with dwelling units and commercial flex spaces will increase the diversity of the City's housing supply, a top priority in the City, and will provide potential neighborhood-serving uses.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The project will be designed and constructed to conform to the structural and seismic safety requirements of the Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The Project will not affect the City's parks or open space or their access to sunlight and vistas. A shadow study was completed and concluded that the Project will not cast shadows on any property under the jurisdiction of, or designated for acquisition by, the Recreation and Park Commission.

11. **First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Section 83.4(m) of the Administrative Code), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

The Project Sponsor submitted a First Source Hiring Affidavit and prior to issuance of a building permit, will execute a First Source Hiring Memorandum of Understanding and a First Source Hiring Agreement with the City's First Source Hiring Administration.

12. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
13. The Commission hereby finds that approval of the Large Project authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Large Project Authorization Application No. 2010.0726X** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated May 15, 2014, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The Planning Commission hereby adopts the MMRP attached hereto as Exhibit C and incorporated herein as part of this Motion by this reference thereto. All required mitigation measures identified in the Eastern Neighborhoods Plan EIR and contained in the MMRP are included as conditions of approval.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Large Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion No. 19165. The effective date of this Motion shall be the date of this Motion if not appealed (After the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1650 Mission Street, Room 304, San Francisco, CA 94103.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on June 5, 2014.

Jonas P. Ionin
Acting Commission Secretary

AYES: Commissioners Hillis, Sugaya, Fong, Antonini, Borden, Moore, and Wu
NAYES: None
ABSENT: None
ADOPTED: June 5, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a Large Project Authorization to allow for the construction of a six-story residential building with 93 dwelling units with 94 off-street parking spaces, and a modification to the ~~requirements for rear yard, open space, and accessory use provisions for dwelling units, located at 2051~~ 3rd Street, Lots 001B, 001C and 006 in Assessor's Block 3994 pursuant to Planning Code Section 329 within the UMU (Urban Mixed Use) Zoning District, and a 68-X Height and Bulk District; in general conformance with plans, dated May 15, 2014, and stamped "EXHIBIT B" included in the docket for Case No. 2010.0726X and subject to conditions of approval reviewed and approved by the Commission on June 5, 2014, under Motion No. 19165. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on June 5, 2014, under Motion No. 19165.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'EXHIBIT A' of this Planning Commission Motion No. 19165 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Large Project Authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Large Project Authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

Validity. The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Expiration and Renewal. Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Diligent pursuit. Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Extension. All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Conformity with Current Law. No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN

Final Materials. The Project Sponsor shall continue to work with the Planning Department on the building design and the design and development of the streetscape and pedestrian elements in conformance with the Better Streets Plan. Final materials, glazing, color, texture, landscaping, and

detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6613, www.sf-planning.org

Garbage, composting and recycling storage. Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6613, www.sf-planning.org

Rooftop Mechanical Equipment. Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

Transformer Vault. The location of individual project PG&E Transformer Vault installations has significant impacts to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:

- A. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
- B. On-site, in a driveway, underground;
- C. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
- D. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding impacts on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
- E. Public right-of-way, underground; and based on Better Streets Plan guidelines;
- F. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
- G. On-site, in a ground floor façade (the least desirable location).

Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

Overhead Wiring. The Property owner will allow MUNI to install eyebolts in the building adjacent to its electric streetcar line to support its overhead wire system if requested by MUNI or MTA.

For information about compliance, contact San Francisco Municipal Railway (Muni), San Francisco Municipal Transit Agency (SFMTA), at 415-701-4500, www.sfmta.org

Noise, Ambient. Interior occupiable spaces shall be insulated from ambient noise levels. Specifically, in areas identified by the Environmental Protection Element, Map1, "Background Noise Levels," of the General Plan that exceed the thresholds of Article 29 in the Police Code, new developments shall install and maintain glazing rated to a level that insulate interior occupiable areas from Background Noise and comply with Title 24.

For information about compliance, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org

Noise. Plans submitted with the building permit application for the approved project shall incorporate acoustical insulation and other sound proofing measures to control noise.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

Street Trees. Pursuant to Planning Code Section 138.1 (formerly 143), the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that street trees, at a ratio of one street tree of an approved species for every 20 feet of street frontage along public or private streets bounding the Project, with any remaining fraction of 10 feet or more of frontage requiring an extra tree, shall be provided. The street trees shall be evenly spaced along the street frontage except where proposed driveways or other street obstructions do not permit. The exact location, size and species of tree shall be as approved by the Department of Public Works (DPW). In any case in which DPW cannot grant approval for installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements of this Section 428 may be modified or waived by the Zoning Administrator to the extent necessary.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

AFFORDABLE HOUSING

Eastern Neighborhoods Affordable Housing Requirements for UMU. Pursuant to Planning Code Section 419.3 (formerly 319.3), Project Sponsor shall meet the requirements set forth in Planning Code Section 419.3 in addition to the requirements set forth in the Affordable Housing Program, per Planning Code Section 415. Prior to issuance of first construction document, the Project Sponsor shall select one of the options described in Section 419.3 or the alternatives described in Planning Code Section 419.5 to fulfill the affordable housing requirements and notify the Department of their choice. Any fee required by Section 419.1 et seq. shall be paid to the Development Fee Collection Unit at DBI prior to issuance of the first construction document an option for the project sponsor to defer payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge in accordance with Section 107A.13.3 of the San Francisco Building Code.

Pursuant to Planning Code Section 419, the Project Sponsor has entered into an agreement with the City to provide rental housing for 30 years under Section 419.5(b) of the Planning Code. The Project Sponsor and the City have entered into such an agreement; therefore the applicable requirements are a 13%

inclusionary housing requirement and there is a \$1 reduction per square foot of the Eastern Neighborhood Public Benefit Fee. If the Agreement is terminated or the units otherwise sold prior to the expiration of the 30 year period, the inclusionary requirement will return to 16% and the project sponsor and its successor must pay the \$1 per square foot Eastern Neighborhoods Public Benefit Fee. Both requirements would be subject to interest and/or penalties as allowed by law. The Project contains 93 units; therefore the Project Sponsor will fulfill this requirement by providing the twelve (12) affordable units on site. If the number of market rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, <http://sf-moh.org/index.aspx?page=321>

Unit Mix. The Project contains 33 studios, 22 one-bedroom, 35 two-bedroom, and 3 three-bedroom units; therefore, the required affordable unit mix is four studios, three one-bedroom, and five two-bedroom, for a total of twelve affordable units. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOH.

Unit Location. The BMR units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of first construction permit.

Phasing. If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than sixteen percent (16%) of the each phase's total number of dwelling units as on-site BMR units. Alternatively, if the Project Sponsor has entered into an agreement with the City to provide rental housing for 30 years under Section 419.5(b) of the Planning Code, the Project shall have designated not less than thirteen percent (13%) of the each phase's total number of dwelling units as on-site BMR units.

Duration. Under Planning Code Section 419.8, all units constructed pursuant to Section 419.6, must remain affordable to qualifying households for the life of the project.

Other Conditions. The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 419 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 419. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOH at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at: <http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>. As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available.

- a. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate

units, and (3) be evenly distributed throughout the building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.

- b. If the units in the building are offered for rent, the affordable unit(s) shall be rented to qualifying households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average fifty-five (55) percent of Area Median Income under the income table called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco." The initial and subsequent rent level of such units shall be calculated according to the Procedures Manual. Limitations on (i) occupancy; (ii) lease changes; (iii) subleasing, and; are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- c. If the units in the building are offered for sale, the affordable unit(s) shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average of one hundred (100) percent of the median income for the City and County of San Francisco as defined in the Inclusionary Affordable Housing Program, an amount that translates to ninety (90) percent of Area Median Income under the income table called "Maximum Income by Household Size" derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco. The initial sales price of such units shall be calculated according to the Procedures Manual. Limitations on (i) reselling; (ii) renting; (iii) recouping capital improvements; (iv) refinancing; and (v) procedures for inheritance apply and are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- d. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOH shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOH at least six months prior to the beginning of marketing for any unit in the building.
- e. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
- f. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.

- g. The Project Sponsor has demonstrated that it is eligible for the On-site Affordable Housing Alternative under Planning Code Section 415.6 instead of payment of the Affordable Housing Fee, and has submitted the Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415 to the Planning Department stating that any affordable units designated as on-site units shall be rental units for a minimum of 30 years pursuant to requirements in Planning Code Section 419.5(b)
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- h. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 419 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law.
- i. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOH and pay interest on the Affordable Housing Fee at a rate equal to the Development Fee Deferral Surcharge Rate in Section 107A.13.3.2 of the San Francisco Building Code and penalties, if applicable.

PARKING AND TRAFFIC

Unbundled Parking. All off-street parking spaces shall be made available to Project residents only as a separate "add-on" option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Car Share. Pursuant to Planning Code Section 166, at least one car share space shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Bicycle Parking. Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than 98 bicycle parking spaces (93 Class 1 spaces and 5 Class 2 spaces).

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Parking Maximum. Pursuant to Planning Code Section 151.1, the Project shall provide no more than 80 off-street parking spaces.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Managing Traffic During Construction. The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation impacts during construction of the Project.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

EASTERN NEIGHBORHOODS INFRASTRUCTURE IMPACT FEE

Impact Fees. Pursuant to Planning Code Section 423 (formerly 327), the Project Sponsor shall comply with the Eastern Neighborhoods Public Benefit Fund provisions through payment of an Impact Fee pursuant to Article 4.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

PROVISIONS

First Source Hiring. The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org

MONITORING

Enforcement. Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Revocation due to Violation of Conditions. Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints

to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

Sidewalk Maintenance. The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org/>

Community Liaison. Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Mitigation Measures. Mitigation measures described in the MMRP for the Eastern Neighborhoods Plan EIR (Case No. 2004.0160E) attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

PREVIOUS

SUBMITTALS



April 17, 2104

via hand delivery

Ann Lazarus, President
San Francisco Board of Appeals
1650 Mission, Room 304
San Francisco, CA 94103

RE: **Appeal of Tree Removal Permit Application 771015**
2051 3rd Street---Board of Appeals Appeal No. 14-058
Hearing Date: May 7, 2014

BOARD OF APPEALS
APR 17 2014
APPEAL # 14-058

President Lazarus and Members of the Board:

Introduction

The subject tree removal permit seeks permission for the removal of four small street trees on 3rd Street and for the removal of two large, significant *Eucalyptus sideroxylon*, commonly known as Red Iron Bark Eucalyptus. These *significant trees* (as defined by the San Francisco Public Works Code) are located on Illinois Street (shown below) and are just steps from the public sidewalk. These trees are more than 50'feet in height and are an integral part of the community and add an invaluable slice of greenery in this industrial and stark landscape



This Board granted jurisdiction for this appeal on March 19, 2014. Although all of the neighbors treasure the trees, because the trees themselves were not posted by DPW with notice of removal, as required by the statute, none of the neighbors realized the trees were in danger. It is the neighbors' contention that the trees should be preserved as a crucial amenity for the community—including the future inhabitants of the proposed development. Appellants' points on appeal include the following:

- (1) The San Francisco Urban Forestry Ordinance (under which this appeal is brought) was specifically designed for situations such as that before the Board. It was enacted for the purpose of saving "significant" trees exactly like the subject trees for the benefit of all.
- (2) The subject trees are in the code required rear yard of the new proposed development lot and the development needs an "exception" or variance to build in the area (which, in turn, requires cutting the trees). The development also proposes numerous other "exceptions" and concessions from the Planning Code and will bring tremendous negative impacts to the adjacent neighbors and this blue-collar community. It is reasonable to expect some fair concessions or return to the neighborhood such as saving these treasured trees.
- (3) The subject trees stand as the only significant greenery for many blocks around and will nicely transition with the Crane Cove Park, a proposed 9-acre recreation and park facility *directly* across Illinois Street.
- (4) Whatever decision the Board may reach, it makes no sense to issue such a permit and allow the trees to be destroyed prematurely before any entitlements or construction permits are issued. Further, the neighbors are also seeking "landmark" status for the trees and respectfully ask the Board to hold its decision in abeyance, or to make it contingent on final approval of construction permits or subject to a determination on the status of the trees and their future.

The Purpose of the Ordinance was to Save Important Trees Like These

The San Francisco Urban Forestry Ordinance was enacted in January 2006. Public Works Code Article 16, Section 8.01 sets forth the overarching purpose of the Ordinance as follows:

“SEC. 801. PURPOSE.

The San Francisco Urban Forestry Ordinance is enacted to further the following public purposes:

(a) To realize the optimum public benefits of trees on the City's streets and public places, including favorable modification of microclimates, abatement of air and noise pollution, reduction of soil erosion and runoff, enhancement of the visual environment, and promotion of community pride;

(b) To integrate street planting and maintenance with other urban elements and amenities, including but not limited to utilities, vehicular and pedestrian traffic, and enhancement of views and solar access;

(c) To promote efficient, cost effective management of the City's urban forest by coordinating public and private efforts within a comprehensive and professional management system;

(d) To reduce the public hazard, nuisance, and expense occasioned by improper tree selection, planting, and maintenance;

(e) To provide for the creation of an equitable, sustained, and reliable means of funding urban-forest management throughout the City;

(f) To create and maintain a unified urban-forest resource, enhancing the City's overall character and sense of place.

(g) To recognize that trees are an essential part of the City's aesthetic environment and that the removal of important trees should be addressed through appropriate public participation and dialogue, including the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.).

(h) To recognize that green spaces are vital to San Francisco's quality of life as they provide a range of environmental benefits and bring beauty to our neighborhoods and commercial districts.

(i) To ensure that landscaping in sidewalk areas is properly constructed and maintained in order to maximize environmental benefits, protect public safety, and limit conflicts with infrastructure.” (Added by Ord. 165-95, App. 5/19/95; amended by Ord. 17-06, File No. 051458, App. 1/20/2006; Ord. 121-06, File No. 060142, App. 6/14/2006)

The Ordinance is aimed at saving trees and green spaces throughout our ever more urban and dense City. The goal of the legislation is to “optimize public benefits” and to promote and recognize trees in our City as a crucial resource. This law also for the first time defined “*significant trees*” and created legal protection for significant trees on *private property*. Prior to the passage of this Ordinance private property owners had no limitation or controls on removal of any and all trees located on private property. “Significant trees” are defined in Section 8.10A of the Ordinance as follows:

“SEC. 810A. SIGNIFICANT TREES.

(a) Definition. For purposes of this Section, a significant tree shall be a tree: (1) on property under the jurisdiction of the Department of Public Works or (2) on privately owned-property with any portion of its trunk within 10 feet of the public right-of-way, and (3) that satisfies at least one of the following criteria: (a) a diameter at breast height (DBH) in excess of twelve (12) inches, (b) a height in excess of twenty (20) feet, or (c) a canopy in excess of fifteen (15) feet.”

For the first time, trees within view of the public right away with significant size and importance received protection from removal by the owner of the property. For many years, the City and members of the public had watched hopelessly as large and important trees were cut down and removed by private owners, generally for development purposes. Prior to the passage of this law, any and all trees on private property could have been removed without the City's permission or the public's participation. By extending the permitting process for removal of significant trees not only to City-owned street trees but also to trees on private property, the Ordinance reflected a national move by many communities to attempt to protect the urban forest as a shared public resource from the pressures of unchecked development forces.

There is a clear recognition now that trees – and collectively the urban forest - are major capital assets in cities across the United States. Just as streets, sidewalks, and public buildings are a part of a community's infrastructure, so are trees and they must be protected. Trees are on the job 24 hours every day working for all of us to improve our environment and quality of life. Trees are important to San Francisco. Environmentally, they help conserve and reduce energy use, reduce local and global carbon dioxide levels, improve air quality, and mitigate storm-water runoff. Additionally, trees provide a wealth of well-documented psychological, social and economic benefits related primarily to their aesthetic effects. Environmentally, trees make good sense, working ceaselessly to provide benefits back to the community. (See, City and County of San Francisco Street Tree Census: Resource Analysis of Inventoried Public Trees—April 2013) However, San Francisco has a shortage of trees and the citywide canopy coverage is estimated at only 13.7%. We need to protect the trees we have, especially larger, significant trees which take

decades to grow. The benefits of trees to the urban landscape and the people who inhabit it are countless:

Trees increase property values and provide residents with a greater sense of community

Trees produce oxygen, clean the air and reduce global warming by reducing energy use

Trees provide a critical habitat for wildlife and birds and promote connection to nature

Trees reduce the impact of urbanization and industry by reducing airborne particulate matter such as smoke and dust

Trees slow and reduce runoff and help protect critical waterways from excess pollutants

Trees calm traffic and soften the urban landscape

Trees and sidewalk gardens increase revenues in shopping districts

Trees and sidewalk gardens reduce crime and promote community

Trees and sidewalk gardens promote exercise and foster psychological health

Trees bring neighbors together to transform their block.

These particular trees bring most of these attributes to this neighborhood. In part because these are the only large trees around the area, the trees are filled with birds and other animals. Neighbors and local schoolchildren have named the trees “Mr. and Mrs. Murray,” and keep track of the trees’ health and status. The trees serve as a meeting ground and “water-cooler” discussion area for daily dog-walkers and other neighbors. The trees are far older than the buildings in the

area and are estimated at 50-60 years of age. (Attached as Exhibit 1 are photos taken in the area in the early 1990's before any adjacent residential buildings were constructed).

The Significant Trees are Located in the Required Rear Yard and the Developer is Requesting "Exceptions" in Order to Eliminate the Rear Yard and Cut the Trees

The proposed Project requires numerous "exceptions" which act as the equivalent of variances under the Eastern Neighborhoods' Planning Code amendments. The proposal is to merge three existing development lots into one, demolish two existing buildings on the site and construct a new, very large six-story-plus (68'+) building of 94 units. The building fronting on Illinois Street would be located in what is the required rear yard of the new development lot. The Project also seek multiple exceptions to further reduce the rear yard of the new lot below the minimum 25% and to reduce open space and street frontage requirements. The proposal provides zero rear yard at grade (25% required by the Code) and provides a fraction of the required rear yard of 25% beginning at the second floor.

Attached hereto as Exhibit 2 is an Assessor's map of the subject block showing the proposed new development lot and the 25% required rear yard. If the Code were followed, the trees would be located entirely within the rear yard and would be safe from removal. Without the requested "exceptions" the proposed Project would provide a 25% rear yard green space and the trees would remain as a community amenity for the residents of the subject new project and the neighbors. Because the Project requests numerous variances from the code, including rear yard per Planning Code Section 134, open space per Planning Code Section 135, and street frontage Under section 145.1, as a "trade off" for these discretionary "gifts" and bonuses to the developer, the subject trees should be saved. The development is asking for a great deal from the community in terms of little to no rear yard, overwhelming height and reduced setbacks, at a

minimum, these significant trees should be saved. As noted below, this would “burden” the project very little and if one calculates the required rear yard etc, there is actually no “burden.”

The Subject Trees are the Only Significant Greenery in the Area and a Transition Should be Created for Crane Cove Park --Directly Across Illinois Street

The trees are the only significant trees and indeed, the only real greenery in the surrounding area. This area is transitioning from a 100% industrial neighborhood to a mixed-use residential enclave. Along with the transition is the need for amenities such as parks and other open space green areas. Street trees, sidewalk gardens and other “greening” practices are needed to ease this transition. Accordingly, every bit of existing greenery is needed. As can be seen from the below panoramic view of Illinois Street, these older, larger, significant trees are one of the few green spots in the entire area and the only street trees of any size in the entire area.



A survey of the area reveals that these trees are the only trees with a trunk diameter greater than 18” for the entire area. Attached hereto and marked as Exhibit 3 is a map and survey of the five block area of the Central water front which shows that these trees are unique and significant not just for the block but for the entire area. Other trees in the area are new and very small street trees. Attached as the second page of Exhibit 3 is a view looking north on Illinois Street which shows the other street trees....which are small and have been “topped” to stunt growth.

The Trees Are Healthy and Saving Them Places Little Burden on the Developer

Because of the depth of the concern in this matter, the neighbors have retained a professional arborist to examine and report on the trees. Attached hereto and marked as Exhibit 4 is a copy of the Arborist report from Ray Moritz of Urban Forestry Associates, Inc. As set forth therein, the Arborist examined the trees and has determined that they are in “excellent health and structural condition.”(Page 3—“Condition”) He also notes the dominant contribution to the neighborhood made by the trees and that the trees are viable for the future even though planted in a raised bed.(Page 2---Observations) The Arborist also notes that the trees meet *all* of the criteria for qualification as “significant trees” under the Public Works Code. (Pages 2-3 ---Qualifications as Significant Trees)

As also noted in the Arborist’s report, the trees convey significant benefits to the community and hold a prominent visual position not only on the block, but also in the entire area. The trees contribute significantly to the environmental health of the area and at the same time maintaining and saving these trees will present very little financial burden on the subject lot because the trees are immediately adjacent to the public sidewalk. (Page 3---Benefits & Burdens) Attached hereto and marked as Exhibit 5 are photographs showing the immediate proximity of the trees to the public sidewalk. As may be seen, the trees are approximately three-four feet from the public right of way and the canopy of the trees reaches into Illinois Street.

It is the Arborist’s considered opinion that these trees are valuable, healthy contributing resources for the community. In a community with so little greenery and virtually no trees of this size, it would be a tragic error to issue a permit to remove the trees. Removal of these trees from this neighborhood would run directly counter to the legislative purposes of the San Francisco

Urban Forestry Ordinance and is counter to all intelligent thinking on such matters. Such wonderful, valuable trees should only be removed as a very last resort or if the trees pose a danger or hazard to the surrounding neighborhood---not the case in this instance.

In fact, simple setbacks such as the project utilizes on the Third Street side of the project would create sufficient room for the trees on Illinois Street. Further, saving these large significant trees would create a nice transition from the site to Crane Cove Park, directly across the street. attached as Exhibit 7 is a rendering from the Crane Cove Park master Plan dated December 2013, which shows the approximate location of the subject site, the trees and the new Park.

The Trees May be Landmarked and No Permit Should Issue Before Full Entitlements are Secured for the Project and Construction is Imminent or Underway

The subject Project is at least a year, maybe more, away from breaking ground. In fact, the Planning Dept recently determined that the height of the Project had been so badly misrepresented to the community that the developers have now been ordered back to the start of the process and must hold new community outreach meetings to present accurate depictions of the proposal. Attached hereto and marked as Exhibit 6 is a copy of an email from the new neighborhood planner Doug Vu dated April 16, 2014 (yesterday) confirming that the developer must mail notice of, and host new community outreach meetings on the Project because of the misrepresentation of the height of the proposal. The relevant portion of his email states:

Hi Steve,

I have conferred with Scott and Julian regarding the height of the adjacent buildings relative to the proposed project and the Department will require the sponsor to conduct another pre-application meeting. The sponsor has been made aware of this and will send invitations to all mandatory neighbors at least 14 days before the meeting. I have been assured the plans shared at the forthcoming pre-application meeting will be accurate and also include the location of all window openings facing the proposed elevation.

Accordingly, the developer is far from receiving final approval for the project. The project was depicted as a mere 8' (eight feet) taller than the adjacent buildings in the drawings submitted to the Dept and the community over the past two years, when in fact, the proposal is at least 18' (eighteen feet) taller to the top of the roof and some 30' (thirty feet) taller if measured to the top of the elevator penthouses---which are pushed up to the northern property line and flush to the adjacent residential buildings.

If the Board somehow reaches a decision that the trees should be removed, it makes no sense to issue such a permit now and allow the trees to be destroyed prematurely before any entitlements or construction permits are issued. If the Board should come to such a decision, the appellants respectfully request that the Board hold its decision in abeyance, or make the decision contingent on final approval of construction permits or subject to a determination on the status of the trees and their future. The neighbors are in the process of seeking Landmark status for the trees. Similar trees (Eucalyptus) have been granted landmark status in other areas. The DPW printout on Significant and Landmark Trees is attached hereto as Exhibit 8.

Conclusion

The significant trees located on Illinois Street should be retained. The trees are a rare green spot for this section of the City and are healthy and structurally sound. The San Francisco Urban Forestry Ordinance was designed for the preservation of such precious urban resources and given the trees' close proximity to the public right away, little burden will be placed on the development parcel for the retention of the subject trees. The trees are located in what will be the required rear yard of the proposed new development parcel and "exceptions" should not be granted to the project that would result in the destruction of the trees. The retention of the significant trees will provide a nice transition to the new Crane Cove Park directly across Illinois

Ann Lazarus, President
San Francisco Board of Appeals

April 17, 2014
2051 3rd Street—Appeal of Tree Removal Permit

Street. If the Board determines to permit the removal of the trees, the neighbors respectfully request that such permission be contingent upon the developer receiving all final entitlements for the project.

Very Truly Yours,

Stephen M. Williams,

On Behalf of Appellants

The trees were visible from 3rd Street before the construction of the residential structures next door.

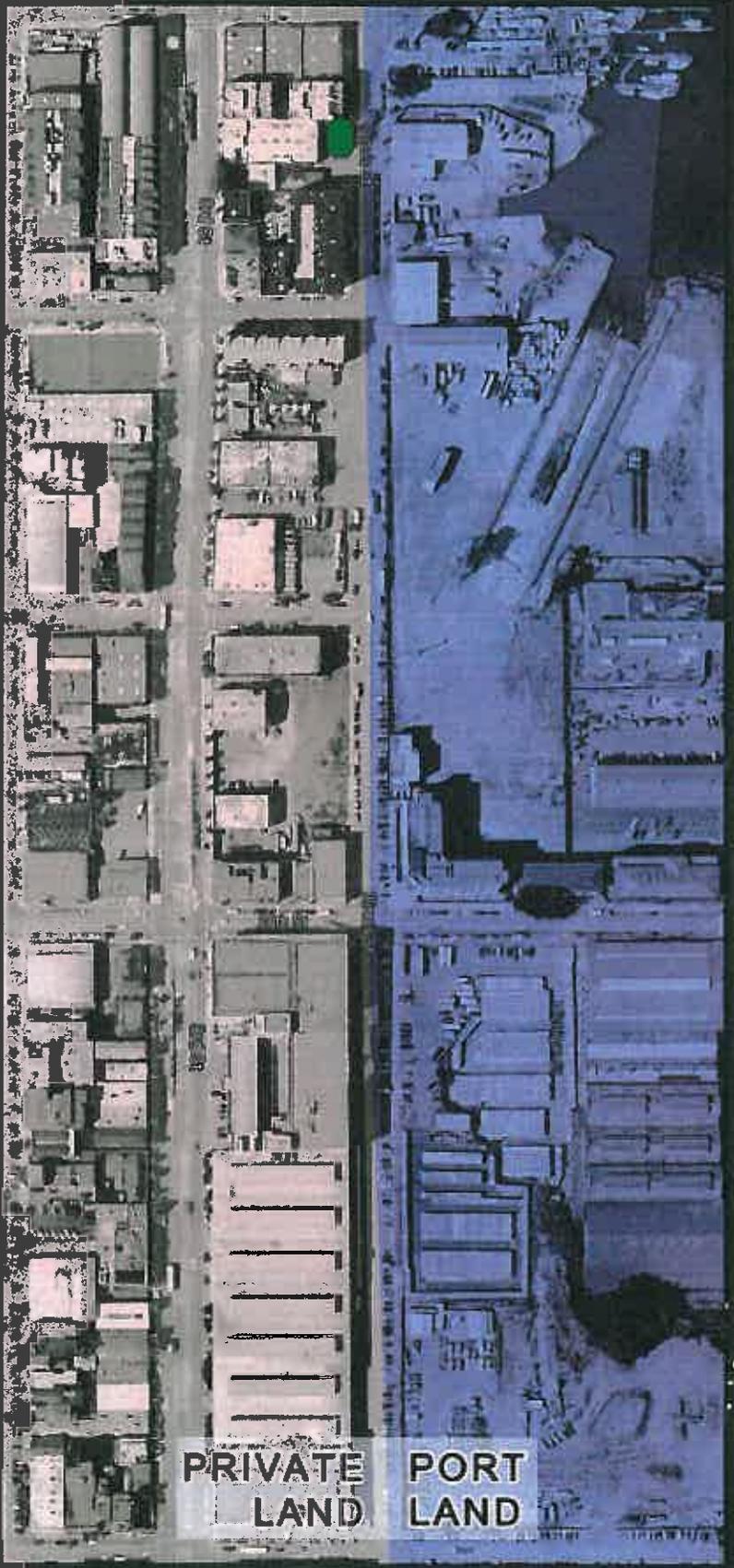


The subject trees pre-date most buildings in the area. These photos date from the early 1990's and show the trees viewed from the north on Illinois Street.

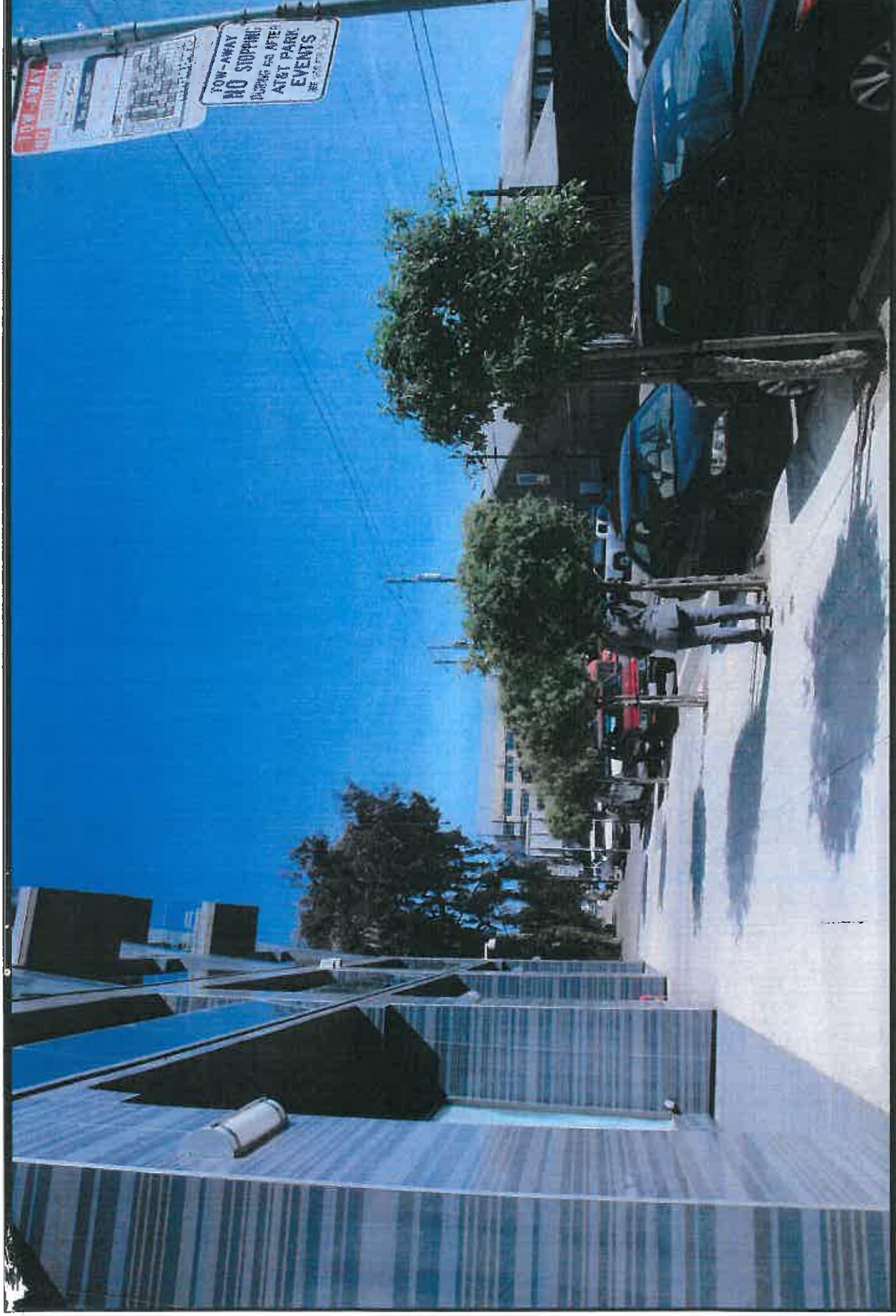


DOGPATCH NEIGHBORHOOD TREE MAP

● = Trees with over 18" callper trunk



PRIVATE LAND PORTLAND



EXISTING STREET TREES (QUERCUS SUBER) PLANTED AT DEVELOPMENT DIRECTLY TO THE SOUTH OF THE PROPOSED DEVELOPMENT OF 2051 3RD STREET. THESE TREES APPEAR TO BE TOPPED AT 10'-6".



URBAN FORESTRY ASSOCIATES, INC.

8 Willow Street San Rafael, CA 94901
(415) 454-4212 info@urbanforestryassociates.com

ARBORIST REPORT

Prepared by:
Urban Forestry Associates
8 Willow St.
San Rafael, CA
415.454.4212
info@urbanforestryassociates.com

PURPOSE

Urban Forestry Associates (UFA) was hired to inspect the two Red Iron Bark Eucalyptus trees along the sidewalk at 650 Illinois Street. I inspected the subject trees on the 21st of February, 2014. The purpose was to assess the benefits and burdens, condition, and a prognosis on tree health, vigor, structural stability and proposed removal of the two trees. This report documents the health and structural condition of the trees and provides our conclusions and recommendations.

OBSERVATIONS

Role of Trees in the Neighborhood

The two Significant Trees (Sec 810A of the Urban Forestry Ordinance) were planted at 650 Illinois Street adjacent to the public sidewalk (See Figures 1 and 2). This species selection is common throughout the City of San Francisco. The two trees are visibly mature in 1987 historic aerial photography appear to have been installed well before that date.



Figure 1- The subject trees 650 Illinois Figure 2 - The location of the trees adjacent to the public sidewalk.

The two trees are certainly make a dominant contribution to the neighborhood. It has been stated that the trees are not viable because they are rooted in a box. This opinion is mistaken. While they are planted in a raised bed the structural and lateral roots are obviously not confined to the raised bed. The roots extend throughout the patio in which the trees occur, well into the south private parking lot, across the private north paved space, across the sidewalk and quite likely under the street. The root crown (a.k.a. root collar) has bellied out the fence and raised a narrow portion of the sidewalk pavement.

QUALIFICATION AS SIGNIFICANT TREES

Significant Trees are defined in **Section 810A. SIGNIFICANT TREES, (a) Definition.** of Article 16: Urban Forestry Ordinance:

"(a) (2) on privately owned-property with any portion of the trunk within 10 feet of the public right-of-way, and (3) that satisfies at least one of the following criteria:"

"(a) a diameter at breast height (DBH) in excess of twelve (12) inches,"

- The subject trees are greater than or equal to 23" DBH and 20" DBH respectively.

"(b) a height in excess of twenty (20) feet,"

- The subject trees are greater than fifty (50) feet in height.

"© a canopy in excess of fifteen (15) feet."

- The subject trees have canopies in excess of forty (40) feet and thirty (30) feet respectively.

Thus the subject trees meet all three of the criteria for qualification as Significant Trees.

CONDITION

While the subject trees have been neglected and have received no apparent maintenance, they are in excellent health and structural condition. I found no evidence of "manifest danger". The trees require the regular standard maintenance of any urban tree to assure on-going structural stability, they do not present an unacceptable risk to people or property.

BENEFITS

The subject trees provide significant beauty to the neighborhood, energy conservation and shelter to the adjacent buildings. They have highly attractive fibrous, deeply furrowed, red iron colored bark, their evergreen foliage has an attractive blueish cast and their flowers are pink to red in color. The rustling of their woody leaves creates white sound that masks the other noises of the city. They serve to mask the mass of the adjacent and proposed buildings.

The provide both nesting and feeding habitat to birds, and abundant pollen to honey bees. On the other hand the eucalyptol in their leaves and bark discourages rodents and noxious insects.

BURDENS

The trees are located immediately adjacent to the public sidewalk and therefore would not greatly diminish the proposed maximum development of the property. They might however dictate a accommodating east foundation design requiring a pier and grade beam type foundation east wall to preserve west extending roots.



Ray Moritz, Urban Forester - SAF Certified Forester #241
ISA Qualified Tree Risk Assessor #1205





FACING SOUTH OF 610 ILLINOIS ST

From: Vu, Doug (CPC) [<mailto:doug.vu@sfgov.org>]
Sent: Wednesday, April 16, 2014 3:23 PM
To: Stephen M. Williams; Banales, Julian (CPC); Sanchez, Scott (CPC)
Cc: Fordham, Chelsea
Subject: RE: 2051 3rd Street

Hi Steve,

I have conferred with Scott and Julian regarding the height of the adjacent buildings relative to the proposed project and the Department will require the sponsor to conduct another pre-application meeting. The sponsor has been made aware of this and will send invitations to all mandatory neighbors at least 14 days before the meeting. I have been assured the plans shared at the forthcoming pre-application meeting will be accurate and also include the location of all window openings facing the proposed elevation. The hearing before the Commission will be continued to a future date (tentatively June 5, 2014) so this requirement can be met. However, please be advised the Commission hearing will not be re-noticed if they agree to continue the item to a specific date on May 1, 2014.

Regarding your previous inquiry about the proposed Crane Cove Park and the shadow analysis completed as part of the environmental review, Chelsea Fordham has confirmed it is accurate and complies with Section 295 of the Planning Code. The proposed park would be under the jurisdiction of the Port of San Francisco, and is therefore not subject to Section 295 of the Planning Code. Additionally, the proposed Crane Cove Park project has not yet submitted for either an entitlement application or environmental review and is therefore, for purposes of CEQA, not considered a reasonably foreseeable project which should have been analyzed in the environmental review for 2051 Third Street. Please include Chelsea in all future correspondence that pertain to environmental issues.

I am the project planner moving forward, so let me know if you have any questions.

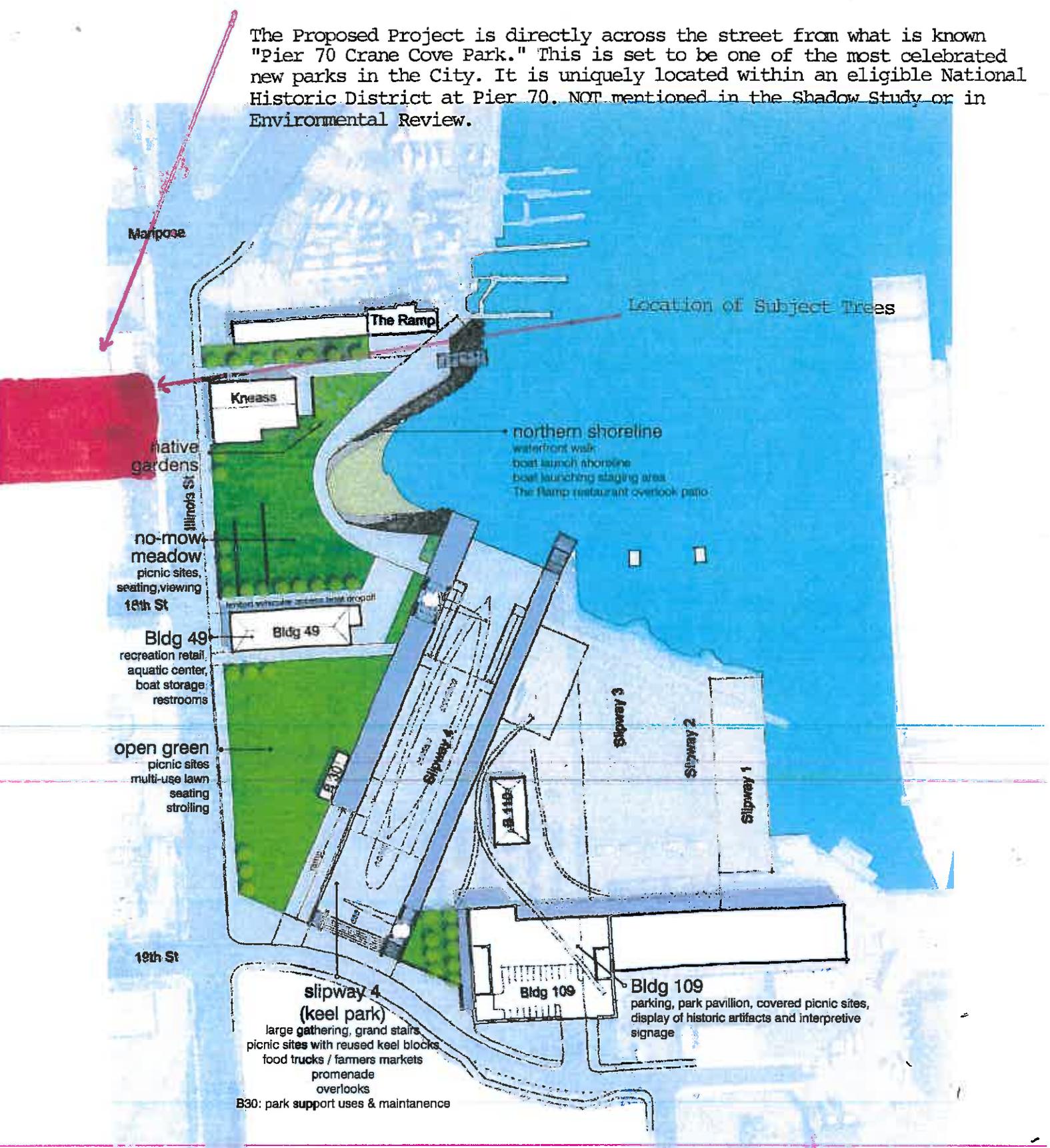
Regards,
Doug

M. Douglas Vu, ASLA
Planner / Preservation Technical Specialist
Southeast Quadrant, Current Planning

Planning Department | City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103
Direct: 415-575-9120 | Fax: 415-558-6409
Email: Doug.Vu@sfgov.org
Web: www.sfplanning.org



The Proposed Project is directly across the street from what is known "Pier 70 Crane Cove Park." This is set to be one of the most celebrated new parks in the City. It is uniquely located within an eligible National Historic District at Pier 70. NOT mentioned in the Shadow Study or in Environmental Review.



Scale 1" = 30'

December 2013 Crane Cove Park Master Plan

Landmark Trees

In 2007, The Urban Forestry Ordinance of the Public Works Code was revised by the Board of Supervisors to protect certain trees on private property that are close to the public right-of-way.

Significant trees are within 10 feet of the public right-of-way and also meet one of the following size requirements:

- 20 feet or greater in height,
- 15 feet or greater canopy width, or
- 12 inches or greater diameter of trunk measured at 4.5 feet above grade.

These trees are granted the same protections as street trees, and a permit is required before any significant tree can be removed. Permits are required for planting or removing street trees and significant trees.

Landmark trees are trees that have been designated by the Board of Supervisors as extra special. It may be due to the rareness of the species, their size or age, or extraordinary structure, or ecological contribution. In addition, historical or cultural importance can qualify a tree for Landmark Status. Property owners, any member of the Board of Supervisors, Planning Commission, the Landmarks Advisory Board, and/or directors of a city department may nominate trees on public or private land to protect and preserve their value and presence in the community under the San Francisco Landmark Tree Program.

Trees that are designated by the city for landmark status are protected from physical damage and removal.

List of Designated Landmark Trees

- 1) Six Blue Gum (*Eucalyptus globulus*) adjacent to 1801 Bush Street.
- 2) Brazilian pepper (*Schinus terebinthifolius*) at Third St. and Yosemite Street in the median triangle
- 3) Flaxleaf paperbark (*Melaleuca linariifolia*) at 1701 Franklin Street
- 4) Sweet Bay (*Laurus nobilis*) at 555 Battery Street
- 5) New Zealand Christmas Tree (*Metrosiderous excelsus*) at 1221 Stanyan Street
- 6) All Canary Island Date Palms (*Phoenix canariensis*) in the center island on Dolores Street
- 7) Thirteen Canary Island Date Palms (*Phoenix canariensis*) located throughout the Quesada Street median West of Third St. to the dead end.
- 8) Two Cliff Date Palms (*Phoenix rupicola*) in the Dolores Street median, one across from 730 Dolores Street and the second across from 1546 Dolores Street
- 9) The grove of Guadalupe Palm (*Brahea edulis*) in the Dolores St. median, across from 1608-1650 Dolores Street.
- 10) Coast live oak (*Quercus agrifolia*) in the backyard of 20-28 Rosemont Place
- 11) California buckeye (*Aesculus californica*) in the backyard of 730 28th Avenue
- 12) Coast live oak (*Quercus agrifolia*) in the backyard of 4124 23rd Street
- 13) Two Flowering Ash (*Fraxinus ornus*) at the Bernal Height Library at 500 Cortland Street
- 14) Blue Elderberry (*Sambucus mexicana*) in the Bernal Height Natural Area near the intersection of Folsom and Bernal Height Boulevard
- 15) Moreton Bay Fig (*Ficus macrophylla*) at 3555 Cesar Chavez Street
- 16) Monterey Cypress (*Cupressus macrocarpa*) in the backyard of 2626 Vallejo Street
- 17) Howell's Manzanita (*Arctostaphylos hispidule*) in the backyard of 115 Parker Avenue
- 18) California Buckeye tree (*Aesculus californica*) located behind 757 Pennsylvania Street, (Assessor's Book 416B, Lot 11)
- 19) Norfolk Island Pine Tree (*Araucaria heterophylla*) in the courtyard of 2040-60 Sutter St.
- 20) Two Canary Island Palms (*Phoenix canariensis*) in the courtyard of 2040-60 Sutter St.

To nominate a remarkable tree, visit the Landmark Tree Program webpage at SF Environment.

For additional information, contact us at:

*The Department of Public Works
Bureau of Street Use and Mapping
1155 Market Street, 3rd Floor
San Francisco, CA 94103
(415) 554-8700*



REUBEN, JUNIUS & ROSE, LLP

May 1, 2014

President Ann Lazarus
San Francisco Board of Appeals
1650 Mission Street, Room 304
San Francisco, CA 94103

BOARD OF APPEALS
MAY 03 2014
APPEAL # 14-058

Re: Project Sponsor's Opposition to Appeal of DPW Permit No. 771015
Hearing Date: May 7, 2014

Dear President Lazarus and Commissioners:

On behalf of Raintree 2051 Third Street, LLC, the owner of 2051 Third Street (the "Property"), we write to oppose the appeal of Permit No. 771015 issued by the Department of Public Works ("DPW") on January 14, 2014. This permit authorizes the removal and replacement of six trees on and adjacent to the Property, including two Eucalyptus trees located on the Property adjacent to Illinois Street (the "Permit").

The Permit was properly issued, as the subject trees represent a common, non-native species known for problematic health conditions, and show evidence of recent limb failures. In addition, their removal is necessary to facilitate development of the Property consistent with the goals of the Eastern Neighborhoods Area Plans. We therefore ask that the Board deny this appeal and allow the removal of these trees.

A. The DPW's Tree Removal Determination Was Proper

The Urban Forestry Ordinance (Department of Public Works Code, Article 16, *et. seq.*) regulates the removal of street trees and "significant" trees located on private property. (San

James A. Reuben | Andrew J. Junius | Kevin H. Rose | Daniel A. Frattin
Sheryl Reuben¹ | David Silverman | Thomas Tunny | Jay F. Drake | John Kevin
Lindsay M. Petrone | Melinda A. Sarjapur | Kenda H. McIntosh | Jared Eigerman^{2,3} | John McInerney III²

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Francisco Public Works Code §806(b).)¹ Under the Ordinance, a permit issued by DPW is generally required for the removal of such trees.

However, the term “significant” under the Code is much different than the colloquial sense of the word implied in Appellants’ brief. This term does not suggest that a tree is unique or important. Instead, “significant” trees include all trees located on private property with a portion of its trunk within 10 feet of a public right of way that also meets at least one of the following minimum size requirements: (a) a diameter at breast height of 12 inches or greater; (b) a height in excess of 20 feet; or (c) a canopy in excess of 15 feet. (§810A(a).) Accordingly, many trees fall within the definition of “significant” under this ordinance solely due to their size and location; the term has no reflection on the health, species, visual quality, context, commonality, historical or cultural significance, or desirability of a particular specimen.

The Urban Forestry Ordinance provides the following criteria which are considered by the Director of DPW prior to issuing a permit for the removal of a “significant” tree, including its: (1) size, age, and species; (2) visual and aesthetic characteristics; (3) cultural and historic characteristics; (4) ecological characteristics; (5) locational characteristics, including whether the tree is in a high traffic area or low tree density area; (6) whether the tree constitutes a hazard; and (7) whether the tree has been properly maintained. (§810A(c).)

i. DPW Removal Recommendation Was Properly Supported By Code Criteria.

On December 12, 2013, in response to a tree removal and planting application filed by the owner, a DPW Urban Forestry Inspector visited the Property and personally inspected the

¹ Unless otherwise stated, all Code references herein refer to the San Francisco Public Works Code.

condition and significance of each tree proposed for removal. Subsequently, the inspector issued a recommendation to DPW supporting removal of six trees on and adjacent to the Property, including two “significant” Eucalyptus planted in a raised bed on the Property adjacent to Illinois Street. Appellants contest only the Department’s recommendation for these two trees.

Prior to issuing a recommendation for removal of the Eucalyptus trees, the Urban Forestry Inspector considered each of the criteria set forth in Urban Forestry Ordinance, as documented on the Tree Evaluation Sheets attached as Exhibit A. These forms contain the inspector’s recognition that the subject trees are “large” and “prominent.” However, these benefits were outweighed by documentation of numerous deficiencies, including the inspector’s observation that the subject trees:

- Represent a non-native species that is “fast growing” and “short lived”;
- Are planted in above-ground planters;
- Display “poor structure”;
- Evidence only “fair vigor”;
- Show heading cuts and co-dominant leaders (increasing risk of structural failure);
- Show signs of previous branch failure; and
- Contain “some thin areas of canopy.”

The inspector’s observations and documentation of site conditions were subsequently discussed amongst members of DPW’s Urban Forestry Team, who concurred with the recommendation for removal of Eucalyptus trees. On the basis of this information and analysis, the Director of DPW properly issued the Permit on January 14, 2014.

ii. Independent Certified Arborist Concurs with DPW Determination

The owner has retained the services of Roy Leggitt, a certified and licensed consulting arborist with more than 25 years of experience, to examine and report on the condition of Eucalyptus trees. Following a thorough examination, the arborist wholly concurred with the removal recommendation of the DPW, noting that the Eucalyptus trees:

- Represent an ordinary, common, and problematic species that is readily observable at other nearby locations within the surrounding neighborhood;
- Belong to a species that is no longer recommended for planting within the City environment due to their fast growth pattern, which results in long, end-heavy limbs that are frequently subject to failure;
- Are planted in raised beds, resulting in a misshapen root structure that is limited in its ability to safely hold up the ever-increasingly large body of the trees; and
- Show evidence of recent limb failure and have reached a “point of maturity where failures are likely and the failing limbs will be large,” constituting an elevated level of risk and potential nuisance.

As discussed in the arborist’s report, these trees simply do not merit retention. Their removal is appropriate due to their common species, lack of historic or cultural context, potentially hazardous limb condition, and poor root condition. In addition, the arborist notes that all Eucalyptus trees contain resins that make them a potential fire hazard. Accordingly, the DPW Approved Street Tree Planting List (attached as Exhibit B) does not include this species. Their presence subjects the owner to ongoing liability and they should be removed before tenants of

the Project or neighborhood residents are injured on a windy day by falling branches. A copy of the arborist's report and findings are attached as Exhibit C.

iii. Upholding the Permit Will Not Harm Neighborhood Residents

Appellants assert that the subject trees are the "only significant trees" and "only real greenery in the surrounding neighborhood." This is simply untrue. As noted in the certified arborist's report, four trees of similar size and of the same species of Eucalyptus are located just around the corner from the Property on Mariposa Street between 3rd Street and Illinois Street. Many other large Eucalyptus trees are also found in the immediate neighborhood to the north, some of which are much larger than the subject trees. Further, other large species of trees such as Monterey Pine and Chinese Elm are present in the immediate vicinity of the Property. Images depicting the location of adjacent "significant" trees and greenery are attached as Exhibit D.

The Property is located within a transitioning industrial area. In recent years, a number of new street trees have been planted in close proximity to the Property, in conjunction with adjacent residential development. These trees represent healthy species that are appropriate for long-term growth, which will beautify the surrounding neighborhood for years to come. The Project's street tree permit authorizes the planting of nine (9) new street trees along both its Illinois and Third Street frontages. This would include the replacement of four street trees that are in poor health and damaging the sidewalk along Third Street with four healthy Brisbane Box Trees, and the planting of five new Magnolia trees on the Illinois Street frontage to replace the two Eucalyptus trees and match the existing trees already planted along the neighboring frontage.

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The newly-planted street trees will provide all of the benefits of trees to the urban landscape listed on page 6 of Appellants brief, including (1) increasing property values and providing residents with a greater sense of community; (2) producing oxygen; (3) reducing the impacts of urbanization by reducing airborne particulate matter such as smoke and dust; (4) calming traffic and softening the urban landscape; and (5) promoting exercise and fostering psychological health. Renderings and a Street Plan depicting the new trees to be planted along Illinois Street as part of the Project are attached as Exhibit E.

In addition, the Property is located just across Illinois Street from a proposed Crane Cove Park site. Although no entitlement or environmental review applications have yet been submitted for the development of this site, the Port of San Francisco is pursuing plans to locate a landscaped open green area at the site in the future. This park area would expand access to greenery in this transitioning industrial area, and would be complemented by the Project's adjacent row of Magnolia trees. Renderings provided in a December 2013 Port presentation of the of the Northern Shoreline portion of the proposed park that would be located across Illinois Street from the Project are attached as Exhibit F.

B. These Trees Are Not Nominated For and Do Not Merit Landmark Designation

Appellants assert that the neighbors are in the process of seeking Landmark status for the Eucalyptus trees, and request that this Board hold its decision on the Project's tree permit in abeyance on a final resolution of this process. However, Appellants present no evidence of sponsorship for landmark status, and the subject trees are not appropriate for such designation.

In order for a tree to achieve landmark status, it must be nominated by either: (1) the owner of property on which the tree is located, by a written request to the Urban Forestry Council; (2) the Board of Supervisors, Planning Commission, or Landmarks Preservation Advisory Board by adoption of a resolution of intent to nominate a tree for landmark status; or (3) the director of a City agency or department, by filing a nomination letter with the Urban Forestry Council. (§810.) Following nomination, the Urban Forestry Council must hold a public hearing on the request in order to determine if a particular tree is special enough to merit landmark status under the Code. Appellants do not assert that any nomination of the subject trees has occurred, and there is no indication of pending landmark designation.

Further, these Eucalyptus trees are not appropriate for landmark designation. Landmarked trees are trees that have been designated by the Board of Supervisors as extra-special due to the rareness of their species, the size or age, their extraordinary structure, visual quality or unique historic or cultural significance. Size and location alone are insufficient for such designation – the subject tree must be remarkable in some way. The subject Eucalyptus trees meet none of these requirements. In the entire City, only a select group of trees has been granted landmark status. As appellants note, this list includes a group of six *Eucalyptus globulus* trees located adjacent to 1801 Bush Street. However, these trees are the only Eucalyptus variety ever to receive landmark designation in the City, the large memorial placard set into the walkway between these trees explains that they are remarkable due not only to their significant size and visual beauty, but also because they were planted by a famous African-American abolitionist known as “Mammy” Pleasant who lived at the site and operated an important element of the

underground railroad. At the time of their designation, the trees were greater than 100 years old. The Board of Supervisors Resolution of Intent to nominate these trees for landmark status (attached as Exhibit G), also notes that the trees had been profiled in print and media coverage.

By contrast, the subject Eucalyptus trees are approximately 40 years old, show evidence of poor health conditions, and have no comparable historic or cultural significance. There is simply nothing remarkable enough about these trees to merit a landmark designation. The owner therefore requests that this Board deny Appellants' request to condition or hold its determination on the underlying permit in abeyance on the basis of the undocumented and unsupported landmark designation request.

C. Retention of the Trees Would Severely Impact the Project

Removal of the Eucalyptus trees is justified not only due to their commonality and evidence of poor health conditions, but also because they are located on the owner's Property in an area that will be developed as part of a proposed residential project that is consistent with the underlying zoning and promotes the goals of the Eastern Neighborhoods Area Plans. Retention of these trees would significantly burden the project by reducing its residential density, eliminating required active street frontage along Illinois Street, and restricting the owner's ability to provide below-grade parking.

i. Project Description

On June 14, 2012, the owner submitted an application under Section 329 of the Planning Code for a project to merge three lots at the center of the block and construct a six-story residential project containing 94 new dwelling units, a subterranean parking garage accessible

from Illinois Street containing 74 space-efficient parking spaces, and approximately 730 square feet of ground floor retail and flex space lining both Third and Illinois Streets (the “Project”). The Project is consistent with the character of multi-unit residential development (including live/work units) to its immediate north and south along both streets, and would directly advance the goals of the Central Waterfront Area Plan, which calls for the development of new high-density residential development on underutilized lots within this transitioning industrial area. This matter is scheduled for hearing before the Planning Commission on June 5th, and has received the official endorsement of the Dogpatch Neighborhood Association (“DNA”).

ii. Project is Consistent with Underlying Zoning and Neighborhood Character

Appellants suggest that the Project is requesting “numerous variances” from the Planning Code, and that retention of the trees is justified as a “trade off” for such discretionary “gifts.” These statements are inaccurate. In fact, the Project would be consistent with the zoning controls of the underlying Urban Mixed Use (“UMU”) District, and is requesting only two modifications as part of its Section 329 authorization, to (1) provide a central courtyard in lieu of a rear yard space on its through lot, and (2) allow a minor technical modification from the street frontage controls of Planning Code Section 145.1 which will not be visible to pedestrians. The Project is not requesting any variances from the Planning Code.

The Appellants allege that the Eucalyptus trees are located within the required rear yard area for the new development. This allegation is misleading. The Project would be located on a through lot with equal frontages along both Illinois and Third Streets. Locating a rear yard setback at either area would eliminate the Project’s ability to provide a consistent street wall or

the active street front uses required by Planning Code Section 145.1. Locating a rear yard along Illinois Street would also be inconsistent with the development of adjacent parcels to the north and south, which contain multi-unit residential structures built-out to their lot lines, with open spaces located at the center of the block.

Planning Code Section 329 expressly allows for modifications to rear yard requirements in the Project's zoning district, as a means of facilitating development of larger sites in transitioning industrial areas within the Eastern Neighborhoods. Accordingly, the Project is requesting a modification under this Section to provide a landscaped central courtyard in lieu of a traditional rear yard. The courtyard area would be comparable in size to the traditional rear yard, meeting the intent of the Code, and would align with open space at the rear of both adjacent properties, consistent with Policy 3.1.8 of the Central Waterfront Area Plan which requires new development to respect existing patterns of rear yard open space. In fact, the owner pursued this design in direct response to requests of adjacent property owners and the DNA, who asked that the project provide open space at the center of the block in order to connect to the existing block pattern of open spaces. This modification represents a superior design that will increase the Project's compatibility the adjacent developments.

iii. Revocation of the Permit would Significantly Burden the Project

Appellants assert, without support, that retention of the subject trees would place "little burden" on the Project and could be accomplished through the use of "simple setbacks" similar to those incorporated on the Project's Third Street frontage. These statements are inaccurate.

The owner's certified consulting arborist has evaluated the subject trees and determined that their retention would seriously impact the development of the Property. The subject trees have water-absorbing roots located throughout the Property's Illinois Street frontage, and a minimum 30-foot radius of undeveloped area would need to be maintained around these trees in order to protect these water-absorbing roots. Included in the 30-foot radius, a minimum 15-foot radius of undeveloped area would need to be maintained around these trees to prevent imminent structural safety concerns. In fact, a larger radius may be required due to the misshapen root base caused by their location of the subject trees within raised bed planters. This would likely render the owner unable to trench for utilities along most of the Illinois Street lot frontage, and make the location of below-grade parking in this area unfeasible.

An illustration demonstrating the minimum radius of impact to the Project associated with retention of the Eucalyptus trees is attached as Exhibit H. Based upon this information, the owner estimates that retention of the Eucalyptus trees would require a reduction of approximately 15 dwelling units (i.e., 16%) and 16 below-grade parking spaces (i.e., 20%), as well as compromising the ability to locate a cohesive street wall and Code-required active ground-floor uses in this area. In addition, the attempt to retain these trees would likely require shifting the Project's garage entrance from Illinois Street to 3rd Street. This is undesirable, as Third Street is a busy street with no shoulder or buffer for slowing or turning traffic. Increased costs and Project delays associated with tree retention would also be substantial.

However, the potential reduction of residential density would perhaps constitute the most burdensome result of revoking the Permit, as it would directly compromise the goal of the

Central Waterfront Plan to locate new high-density residential development on underutilized lots in this transitioning industrial area.²

D. Conclusion

The subject trees do not merit retention. They represent a non-native species common to the area, show evidence of poor health conditions, have no documented cultural or historic significance, and subject the owner to ongoing liability. DPW properly issued the Permit on the basis of sound analysis of specific criteria set forth in the Urban Forestry Ordinance. In addition, removal of these trees is necessary to facilitate the development of a highly-desirable residential project at the site, which will add 94 new units to the City's housing stock and result in a net increase of healthy street trees in the surrounding neighborhood. The owners therefore respectfully request that the Board uphold the permit, allowing removal of these trees.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP



Melinda A. Sarjapur

cc: Arcelia Hurtado, Vice President
Commissioner Frank Fung
Commissioner Darryl Honda
Commissioner Chris Hwang
Cynthia Goldstein, Board of Appeals
Christopher Delaney, et al., Requestors

² Pursuant to California Government Code Section 65589.5 (the "Housing Accountability Act"), in order for a local agency to condition approval of a proposed housing development that complies with the applicable, objective general plan and zoning standards on a condition that it be developed at a lower density, specific findings must be made and supported by substantial evidence.

EXHIBIT A

CCSF - DPW - BUF TREE EVALUATION SHEET

City Maintained Tree (s) Privately Maintained Tree (s) Emergency Significant Tree (s)

Article 16 Violation Rec Park SFUSD SF PORT Street Cleaning Date & Time 12am-6 Mon

Application is: APPROVED or DENIED

INSPECTOR: Sally Bentz

TODAY'S DATE: 12/12/13 LENGTH OF POSTING PERIOD: 30

FROM: 12/13/13 THRU: 1/11/14

LOCATION: 650 Illinois

CROSS STREET: Mariposa Tree Order: 1

SPECIES NAME/TYPE: Eucalyptus - Red Ironbark

NUMBER OF SPECIES: 2 HEIGHT: 35-45' DBH: _____ (INCHES)

TREE (S) CONDITION: GOOD FAIR POOR

DEFICIENCIES OR CONCERNS:

Poor structure Fair vigor
Codominant leaders
Fast growing species and short lived
Found a few heading cuts
Signs of branch failures
Some thin areas of canopy * In above ground planter

SIDEWALK WIDTH OR # OF FLAGS: 5

SIZE OF TREE BASIN (S): _____

BASIN (S) ENLARGED (?) _____

*PROPERTY SETBACK: _____

SIDEWALK CONDITION: Good Fair

Hazardous # OF DAMAGE SQUARES: 42

OF TREE (S) TO BE REMOVED: 2

OF TREES TO BE REPLACED: 2 on street side

PROXIMITY OF INFRASTRUCTURE:

SEWER _____ UTILITY POLE _____ STOP SIGN _____
WATER _____ STREETLIGHT _____ GAS _____

OVERHEAD ELECTRICAL WIRES _____
HI/LOW VOLT. _____

COMMENTS:

RECOMMENDATIONS:

Remove and replant as street tree

SIGNATURE AND DATE

Sally Bentz 12/11/13

OTHER SPECIES ON THE BLOCK:

Oaks, Magnolia's, Eucalyphus

SPECIES SUGGESTIONS FOR LOCATION:

Significant tree criteria for consideration

PWC Article 16 Section 810A, "As part of the Director's determination to authorize removal of a significant tree, the Director shall consider the following factors related to the tree:"

Size, age, and species;

35-45', 40 years old, Red Ironbark

Visual and aesthetic characteristics, including the tree's form and whether it is a prominent landscape feature or part of a streetscape;

Large prominent trees

Cultural or historic characteristics, including whether the tree has significant ethnic appreciation or historical association or whether the tree was part of a historic planting program that defines neighborhood character;

Few Red Ironbarks on Mariposa St.

Ecological characteristics, including whether the tree provides important wildlife habitat, is part of a group of interdependent trees, provides erosion control, or acts as a wind or sound barrier;

It's a large tree may provide habitat
It's a non-native species

Locational characteristics, including whether the tree is in a high traffic area or low tree density area, or provides shade or other public benefits;

Yes wind and sound barrier

Visually assessable

Near 3rd st. which is busy. Close to areas of high to medium traffic.

Whether the tree constitutes a hazard tree as set forth in Section 802(o); and

Not a hazard

Whether the tree has been maintained as set forth in Section 802(l).

Trees were planted in above grade planters.

Other notable characteristics or considerations

A few readings cuts found on tree.

CCSF - DPW - BUF TREE EVALUATION SHEET

City Maintained Tree (s) Privately Maintained Tree (s) Emergency Significant Tree (s)

Article 16 Violation Rec Park SFUSD SF PORT Street Cleaning Date & Time 12am-6 Mon

Application is: APPROVED or DENIED

INSPECTOR: Sally Bentz

TODAY'S DATE: 12/12/13 LENGTH OF POSTING PERIOD: 30 FROM: 12/13/13 THRU: 1/11/14

LOCATION: 650 Illinois

CROSS STREET: Mariposa Tree Order: 2

SPECIES NAME/TYPE: Eucalyptus - Red Ironbark

NUMBER OF SPECIES: 2 HEIGHT: 35-45' DBH: _____ (INCHES)

TREE (S) CONDITION: GOOD FAIR POOR

DEFICIENCIES OR CONCERNS:

* In above ground planter Thin areas of canopy
Poor structure Fair vigor
Codominant leaders
fast growing species and short lived
few heading clfs
Signs of branch failures

SIDEWALK WIDTH OR # OF FLAGS: 5 SIZE OF TREE BASIN (S): _____ BASIN (S) ENLARGED (?) _____ *PROPERTY SETBACK: _____

SIDEWALK CONDITION: Good Fair Hazardous # OF DAMAGE SQUARES: _____

OF TREE (S) TO BE REMOVED: 2 # OF TREES TO BE REPLACED: 2 on street side

PROXIMITY OF INFRASTRUCTURE:
SEWER _____ UTILITY POLE _____ STOP SIGN _____ OVERHEAD ELECTRICAL WIRES _____
WATER _____ STREETLIGHT _____ GAS _____ HI/LOW VOLT. _____

COMMENTS: _____

RECOMMENDATIONS: Remove and replant as street tree

SIGNATURE AND DATE: [Signature] 12/12/13

OTHER SPECIES ON THE BLOCK: _____
SPECIES SUGGESTIONS FOR LOCATION: Oaks ↑, Magnolia's

Significant tree criteria for consideration

PWC Article 16 Section 810A, "As part of the Director's determination to authorize removal of a significant tree, the Director shall consider the following factors related to the tree;"

Size, age, and species;

35-45', 40 years old, Red Ironbark

Visual and aesthetic characteristics, including the tree's form and whether it is a prominent landscape feature or part of a streetscape;

Large prominent tree(s)

Cultural or historic characteristics, including whether the tree has significant ethnic appreciation or historical association or whether the tree was part of a historic planting program that defines neighborhood character;

Few Red Ironbarks on Mariposa St.

Ecological characteristics, including whether the tree provides important wildlife habitat, is part of a group of interdependent trees, provides erosion control, or acts as a wind or sound barrier;

Large tree may provide habitat
Non Native species

Locational characteristics, including whether the tree is in a high traffic area or low tree density area, or provides shade or other public benefits;

Yes - wind and sound barriers

Visually assessable

Near 3rd St. which is busy and close to areas of high to medium traffic.

Whether the tree constitutes a hazard tree as set forth in Section 802(o); and

Not a hazard

Whether the tree has been maintained as set forth in Section 802(l).

Trees were planted in above ground/grade planters

Other notable characteristics or considerations

A few heading cuts found on tree.

EXHIBIT B

SFGOV | Residents | Business | Government | Visitors | OnlineServices

Help

Approved

Street Tree List

San Francisco Street Tree Species List a collaboration with SF Department of Public Works and Friends of the Urban Forest

Disclaimer: these lists contain trees that can work as sidewalk trees in San Francisco. Every planting site has unique conditions. A lot of factors go into choosing a tree. This list can help you decide but you must have species approval from the Department of Public Works prior to planting your tree.

List A: Species that perform well in many locations in San Francisco

Arbutus x Marina
 Callistemon citrinus
 Callistemon viminalis
 Cordyline australis
 Eriobotrya deflexa
 Ginkgo biloba Autumn Gold , Saratoga
 Lagunaria patersonii
 Lophostemon confertus (formerly Tristania conferta)
 Magnolia grandiflora Sam Sommers, St. Mary, Majestic Beauty, Little Gem
 Melaleuca linarifolia
 Melaleuca quinquenervia
 Metrosideros excelsus
 Olea europaea
 Pittosporum undulatum
 Platanus x acerifolia Bloodgood, Yarwood,
 Prunus cerasifera Krauter Vesuvius
 Prunus serrulata Kwanzan
 Pyrus calleryana Aristocrat or Chanticleer
 Pyrus kawakamii
 Trachycarpus fortunei
 Tristaniopsis laurina
 Tristaniopsis laurina Elegant
 Ulmus parvifolia
 Washingtonia robusta

List B: Species that perform well in certain locations, with special considerations, as noted

Acacia baileyana Purpurea fast growing, high maintenance
 Acer buergerianum prefers heat, wind protection
 Acer rubrum prefers heat, wind protection
 Aesculus carnea gets windburn easily in summer even in protected sites
 Celtis sinensis prefers heat, wind protection, uneven performer
 Ceratonia siliqua needs large space, good drainage
 Corymbia ficifolia needs lots of sidewalk space
 Crataegus phaenopyrum
 Crataegus laevigata needs wind protection
 Cupaniopsis anacardioides uneven performer, needs heat, wind protection
 Eucalyptus nicholii needs space, fast growing, high maintenance
 Eucalyptus polyanthemus needs space, fast growing, high maintenance
 Geijera parvifolia prefers heat, wind protection
 Gleditsia triacanthos Shademaster fast growing, prefers heat, wind protection
 Hymenosporum flavum uneven performer, prefers heat, wind protection, good drainage, does well when protected from wind
 Jacaranda mimosifolia uneven performer, prefers heat, wind protection, good drainage
 Koeleruteria paniculata uneven performer, prefers heat, wind protection
 Laurus nobilis Saratoga uneven performer, prefers heat, wind protection, gets pests
 Leptospermum laevigatum roots poorly, needs staking for many years, or even permanent metal staking
 Ligustrum lucidum pollen irritates allergies
 Liquidambar styraciflua needs space for canopy and roots
 Liriodendron tulipifera uneven performer, gets pests, prefers heat and wind protection
 Lyonothamnus floribundus asplenifolius prefers heat, wind protection
 Magnolia grandiflora Russet large cultivar, needs space
 Maytenus boaria needs space for roots, produces many suckers
 Melaleuca ericifolia roots poorly, needs staking for many years
 Melaleuca styphelioides prickly and can root poorly
 Michelia doltsopa uneven performer, very slow grower, prefers heat and wind protection
 Phoenix dactylifera needs space due to height and width
 Phoenix canariensis needs space due to height and width
 Pistacia chinensis Keith Davey prefers heat, wind protection
 Pittosporum crassifolium best for narrow sidewalks in foggy and windy areas. Can leak sap from trunk.

Pooecarpus gracilior gets pests, better as a shrub
Quercus agrifolia uneven performer, prefers heat, wind protection, good drainage
Rhus lancea
Syracus romanzoffianum needs heat, wind protection
Tilia cordata needs space, produces a lot of suckers.

List C: Species that need further evaluation

Acer x freemanii
Brachychiton populneum prefers heat, wind protection
Carpinus betulus Fastigiata
Chorisia speciosa prefers heat, wind protection
Corylus colurna, Turkish hazel
Elaeocarpus decipiens
Ginkgo biloba Princeton Sentry more upright form
Magnolia soulangeana Rustica Rubra
Michelia champaca needs wind protection, prefers heat, clay soil
Platanus x acerifolia Columbia
Pittosporum rhombifolium
Pittosporum tenuifolium
Prunus lyonii
Prunus ilicifolia
Quercus frainetto Forest Green, Italian Oak
Quercus ilex needs wind protection, sidewalk space, gets powdery mildew
Quercus suber
Quercus phellos (Willow oak)
Sorbus aucuparia (or other species)
Ulmus parvifolia x carpinifolia Frontier
Ulmus wilsoniana Prospector
Ulmus japonica x wilsoniana Accolade

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 City and County of San Francisco

EXHIBIT C

Tree Management Experts

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Member, American Society of Consulting Arborists
Certified Arborists, Certified Tree Risk Assessors



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Raintree Partners

Attn: Richard W. Price
25 Taylor Street
San Francisco, CA 94102

Case: 2051 3rd Street (650 Illinois Street)
San Francisco, CA

Date: 4/30/14

ARBORIST REPORT

Assignment

- Inspect and evaluate two red ironbark eucalyptus (*Eucalyptus sideroxylon*) trees located at 650 Illinois Street.
- Review and consider various documents related to a permit application for tree removal and a subsequent appeal of the permit granted by the City.
- Provide an Arborist Report of findings and to make recommendations.

Background

Raintree Partners owns the through lot parcel at 2051 3rd Street / 650 Illinois Street. This owner has development plans that include removal of two trees on private property near the Illinois frontage. The trees are approximately 50 feet in height. The north tree is approximately 30 inches in diameter and the south tree is approximately 24 inches in diameter. San Francisco Public Works Code Section 810A defines "Significant Trees" as trees with any part of their trunk within 10 feet of the right-of-way and being 12 inches in diameter, 20 feet tall or 15 feet wide. Because these trees are large enough to qualify as Significant Trees, a permit application was applied for and granted by the Department of Public Works. This permit has been appealed and the tree removal permit application will be heard before the Board of Appeals.

An evaluation of these trees has been completed by the Department of Public Works prior to the issuance of the permit. This Arborist Report is meant to supplement the information provided by the City and illustrate the condition of these trees.

Observations and Discussion

Species Characteristics and Related Problems

These two red ironbark eucalyptus are mature trees, typical and contemporary to other mature trees of this same species nearby. These trees were likely planted in the 1970s, are not rare, and have no historic importance, but rather are quite average. There were 4 trees of similar size of this same species found just around the corner on Mariposa Street

Tree Management Experts

Consulting Arborists

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San Francisco, CA 94115

Member, American Society of Consulting Arborists
Certified Arborists, Certified Tree Risk Assessors



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between 3rd Street and Illinois Street. All of these trees are large enough that they would be "Significant Trees" as well, if in a different location. Many other eucalyptus of this species and other species were found in the immediate neighborhood to the north, some trees being much larger than the subject trees. Please refer to photos 4, 5, 6, and 7.

This species was widely planted in the 1970's and 1980's, and was one of the darlings of Landscape Architects of that time. This species grows fast and is upright when young, and these trees provided quick results for new designs. Since the 1980's, I am not aware of a single instance of these trees being recommended or planted anywhere. The Department of Public Works' approved street tree planting list does not include this species of tree or any other eucalyptus species.

Tree Health and Safety

The long-term management of red ironbark eucalyptus is problematic. The fast growth is the result of our higher soil fertility, long growing seasons and abundant water, as compared to this tree's native Australia. When planted in California, it is as if this species is growing on steroids. Fast growth is not good for trees. Fast growth results in long, end-heavy limbs with weak wood. These trees have developed long, end-heavy limbs that are now failing. There are two 8-inch limb stubs in the north tree that have recently lost 20-foot long limbs. Please refer to photos 8, 9, 10, 11, 12, 13, 14, 15, and 16. For these reasons, Landscape Architects are no longer planting this species, and the wholesale nurseries don't carry these trees anymore because of their long-term problems and reputation as being problematic. In addition, all eucalyptus contain resins that make them a potential fire hazard.

Prior maintenance of these trees had recognized the fast growth problem, and the old topping cuts can be seen at 4 levels in the framework of trunks and limbs. Please refer to photos 12, 15, and 16. These old topping cuts are also weak points in the structure of the trees.

The City evaluation states that the trees are not hazardous. Based on the recent branch failures, I disagree, but I also think I understand their position. My experience with the City definition of hazardous is more specifically as to whether or not a tree is an *imminent hazard*. I do not believe that these trees are imminent hazards: trees that are likely to fall and cause harm at any moment. I do believe, however, that these trees are at a point of maturity where failures are likely and the failing limbs will be large. Please refer to photos 8, 9, 10, 11, 12, 13, and 14. In other words, these trees pose an elevated level of risk and are now a nuisance.

The trees were planted in raised beds or planters that are about 18 inches tall and 6 feet wide. The root structure of these trees is confined and misshapen by the planters. Trees normally develop a horizontal root plate, and this root structure is now compromised. The roots continue to absorb water and nutrients and the trees have continued to grow, but the root system is limited in its ability to safely hold up these ever increasingly large trees. The

Tree Management Experts

Consulting Arborists

3109 Sacramento Street
San Francisco, CA 94115

Member, American Society of Consulting Arborists
Certified Arborists, Certified Tree Risk Assessors



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root system is inadequate and compromises tree safety. Please refer to photos 18, 19, 20, 21, 22, and 23.

The asphalt sidewalk is heaving due to root intrusion. This sidewalk is now hazardous to pedestrians and must be repaired. Root cutting will be required to make these repairs. This asphalt sidewalk does not conform to DPW standards and will be replaced with a standard curb and concrete sidewalk. This construction will further impact root structure. The critical root zone for structural roots and the tree protection zone for water absorbing roots will be heavily impacted by the sidewalk construction in either case. Tree health and safety will be further compromised. Please refer to photo 24.

Conclusions and Recommendations

These are good examples of an ordinary, common, and problematic species.

Because of the larger size and maturity point in these trees, limb failures are more likely, are large and create a greater risk.

Preservation of these trees is not recommended due to compromised root structure and limb safety concerns.

I recommend that these trees be removed and replaced with a better species selection that will not pose high risk to this property, the sidewalk and the roadway.

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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.

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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.

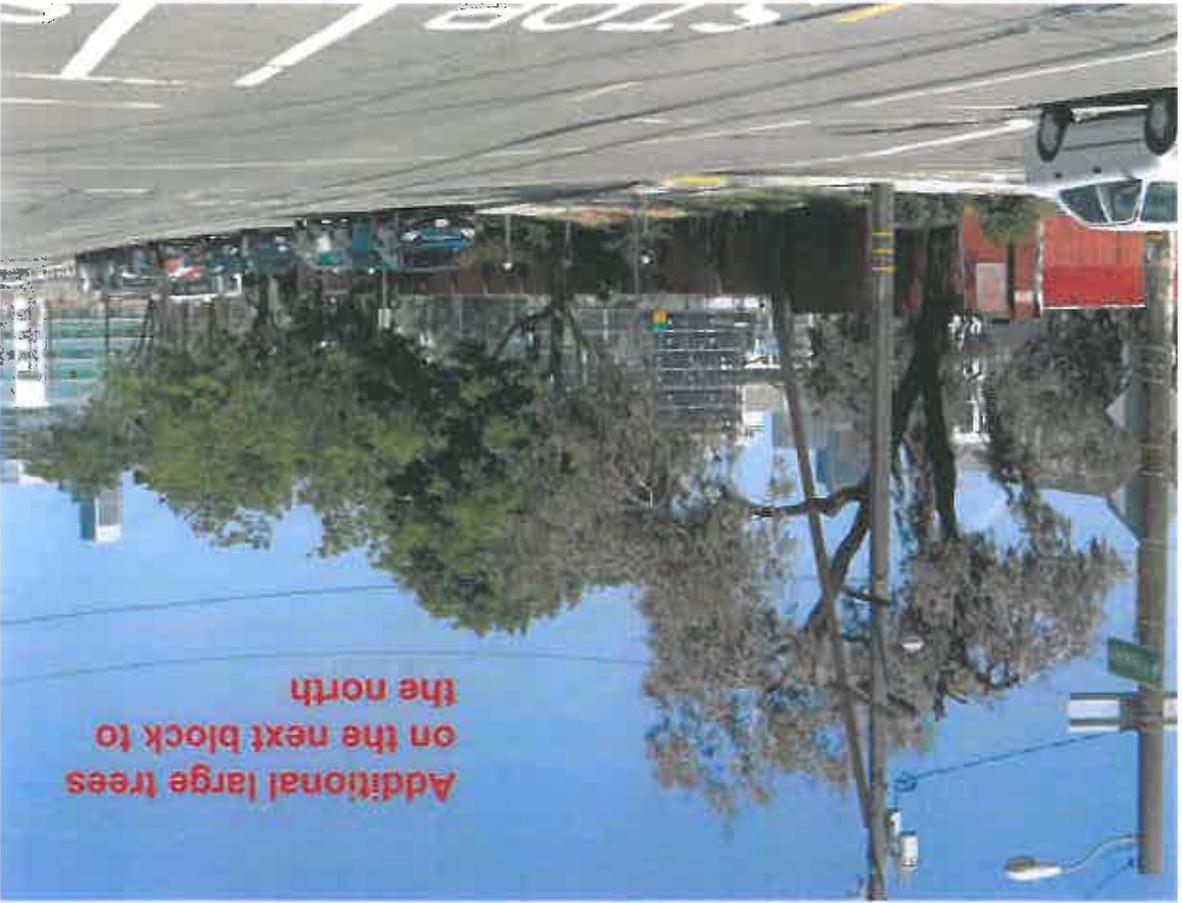
I have rendered professional services in a full time capacity in the field of horticulture and arboriculture for more than 25 years.

Signed: _____

A handwritten signature in black ink, appearing to read "Roy C. Leggitt, III", written over a horizontal line.

Date: 4/30/14



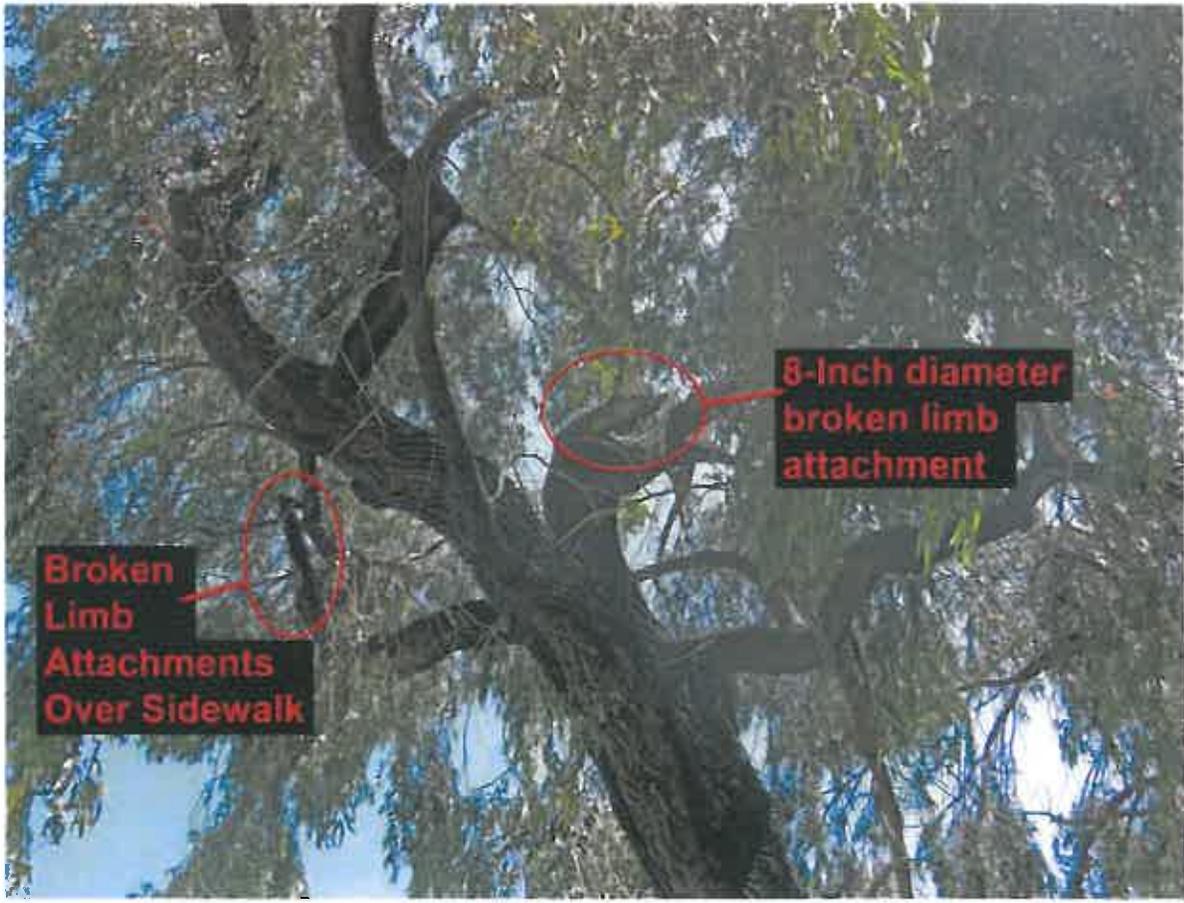




Large Monterey pines across the street



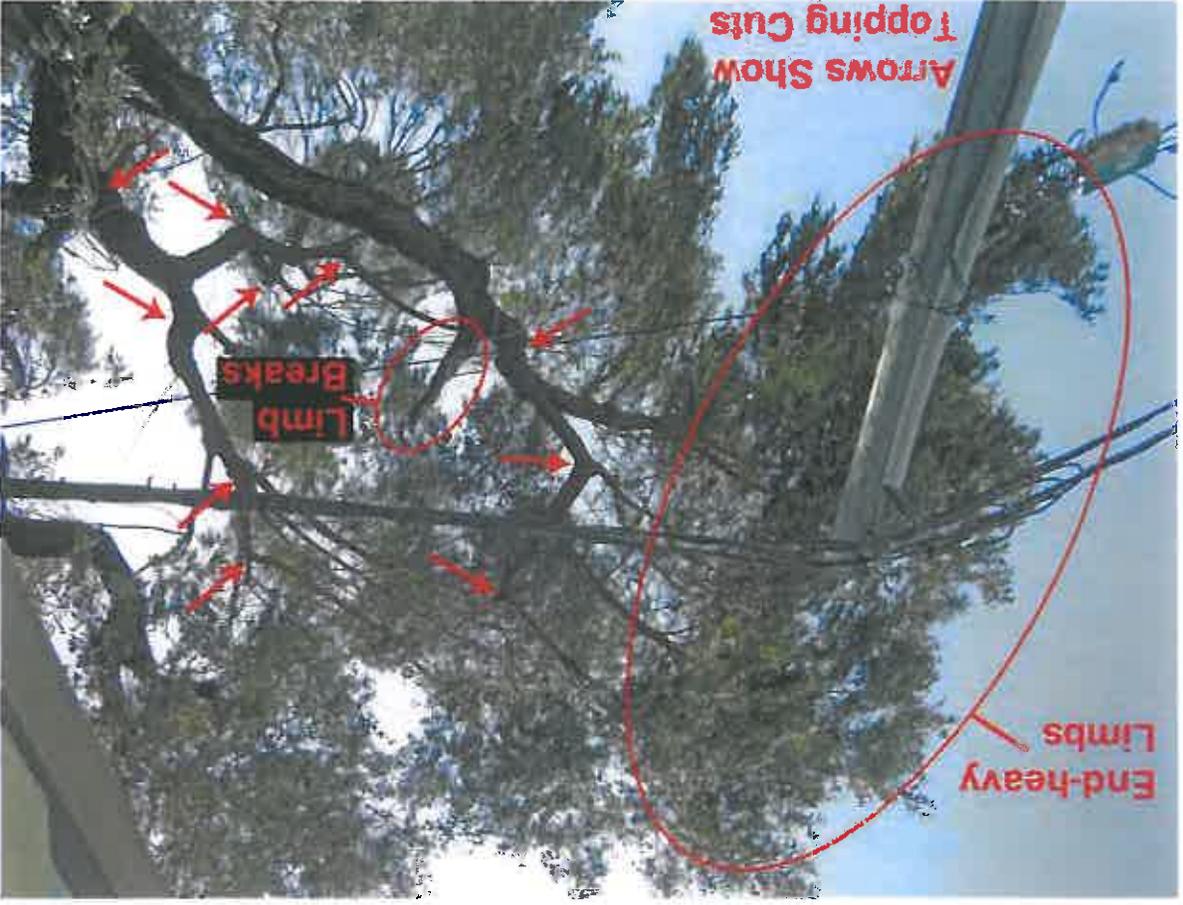
**Red Ironbark Eucalyptus
just around the corner on
Mariposa Street**

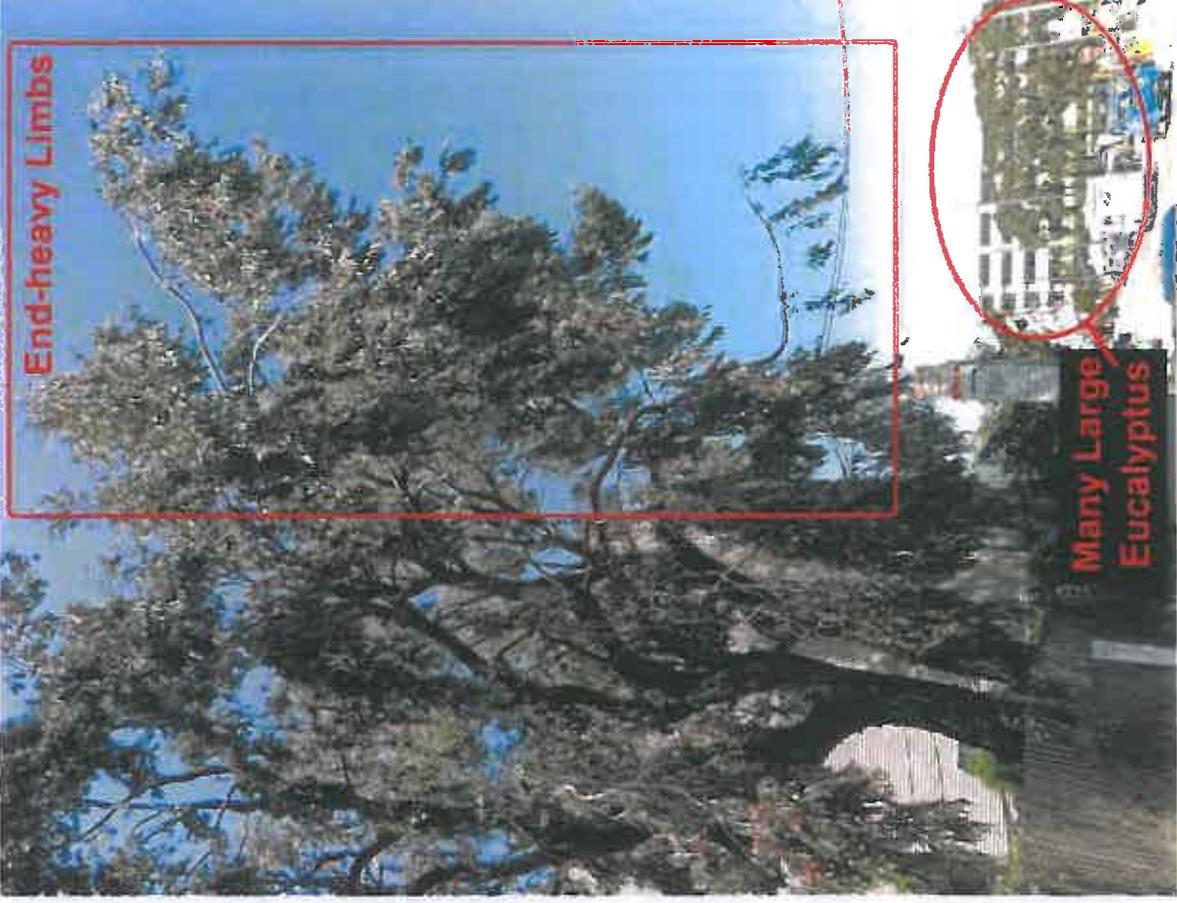


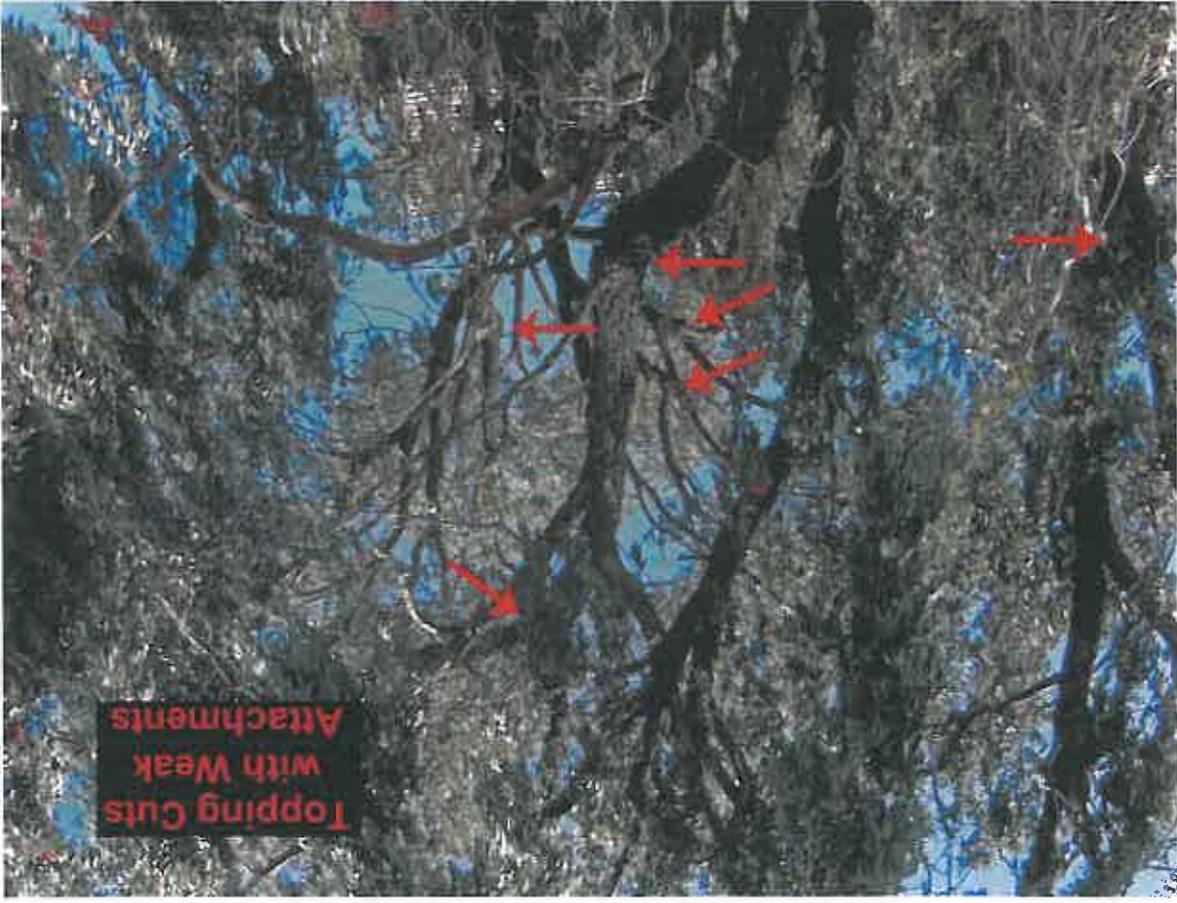
**Broken
Limb
Attachments
Over Sidewalk**

**8-Inch diameter
broken limb
attachment**

















Cinder Block Planter



Top of Planter

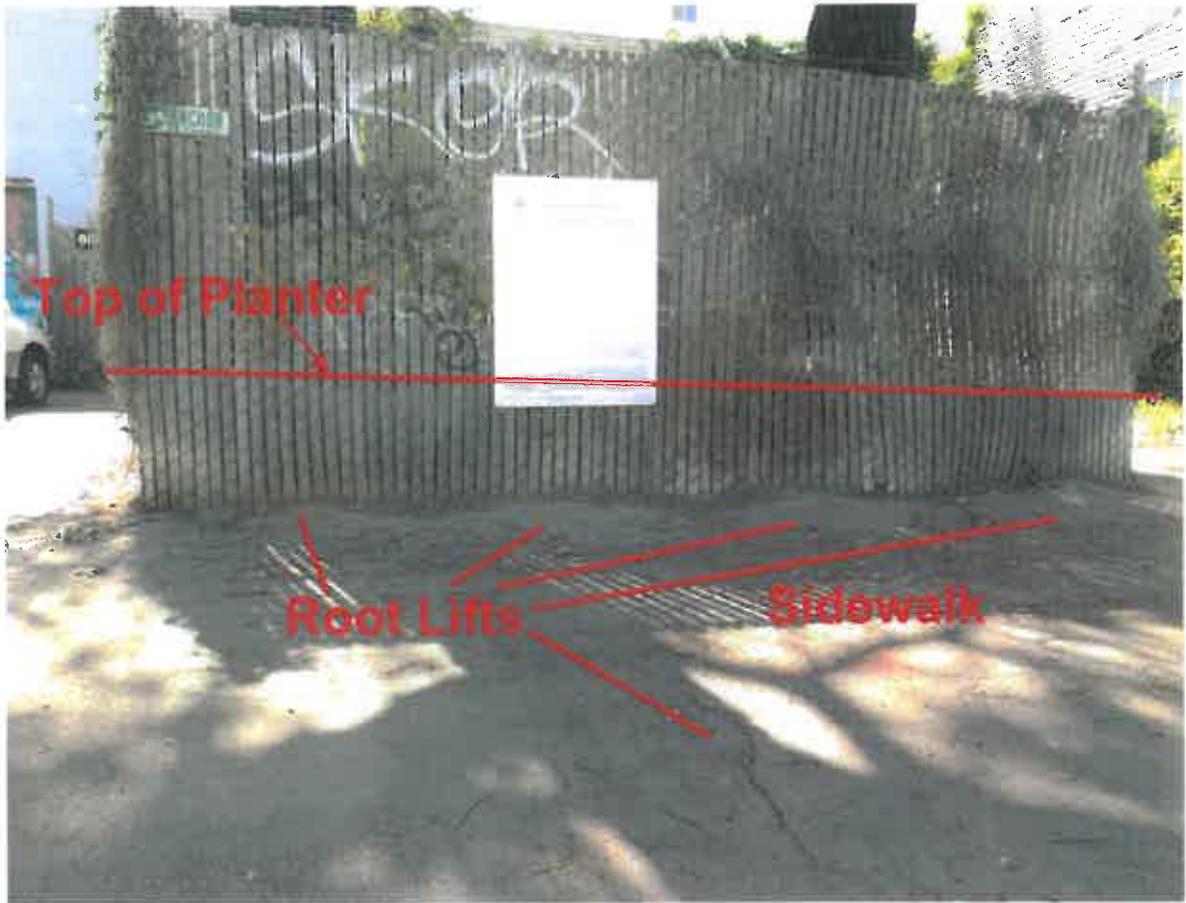


EXHIBIT D

Exhibit D



Eucalyptus trees
that are much larger
than the Subject
Trees

Large Monterey Pines

Subject Trees

Red Ironbark
Eucalyptus trees

50 feet

Exhibit D

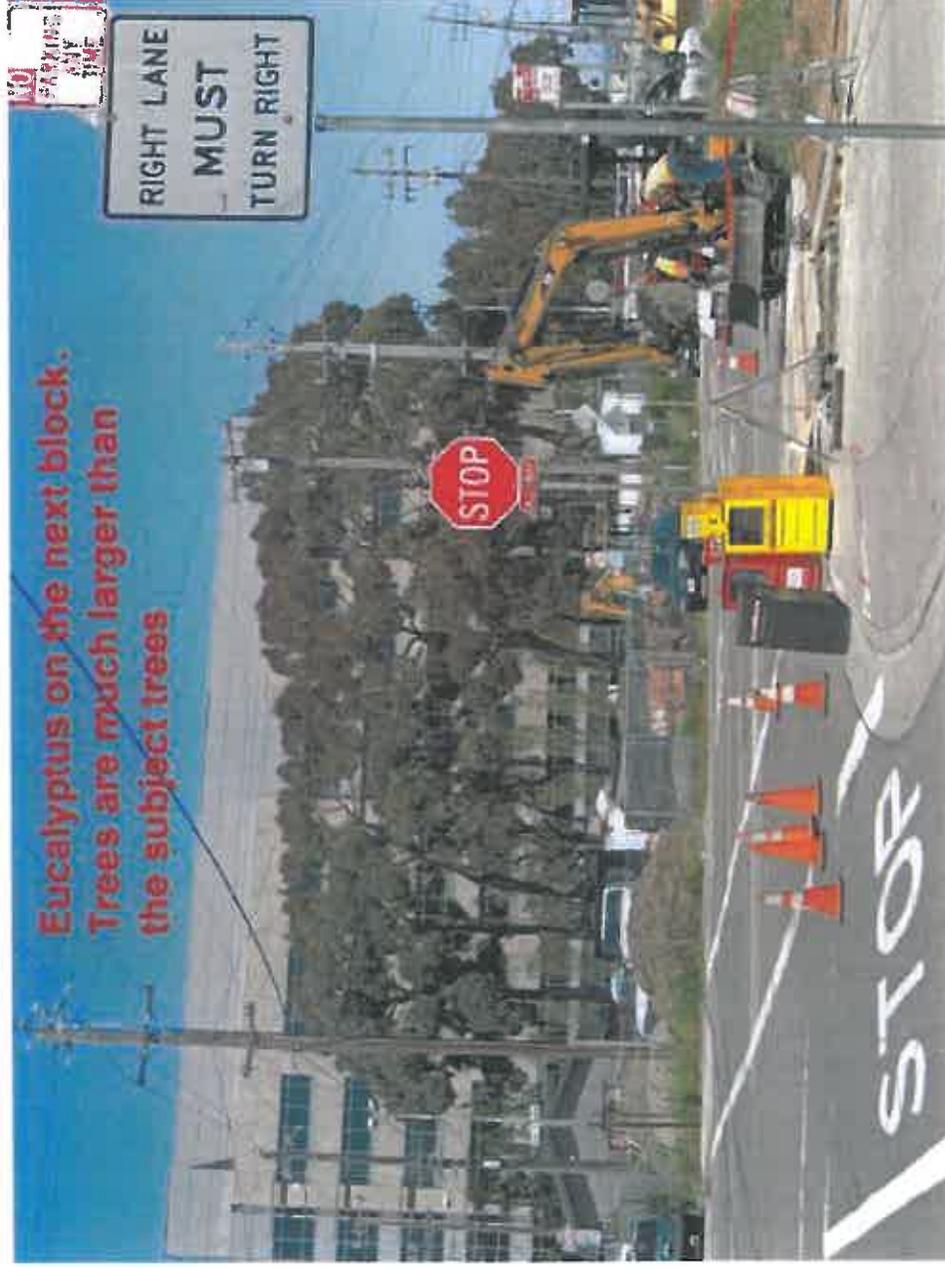
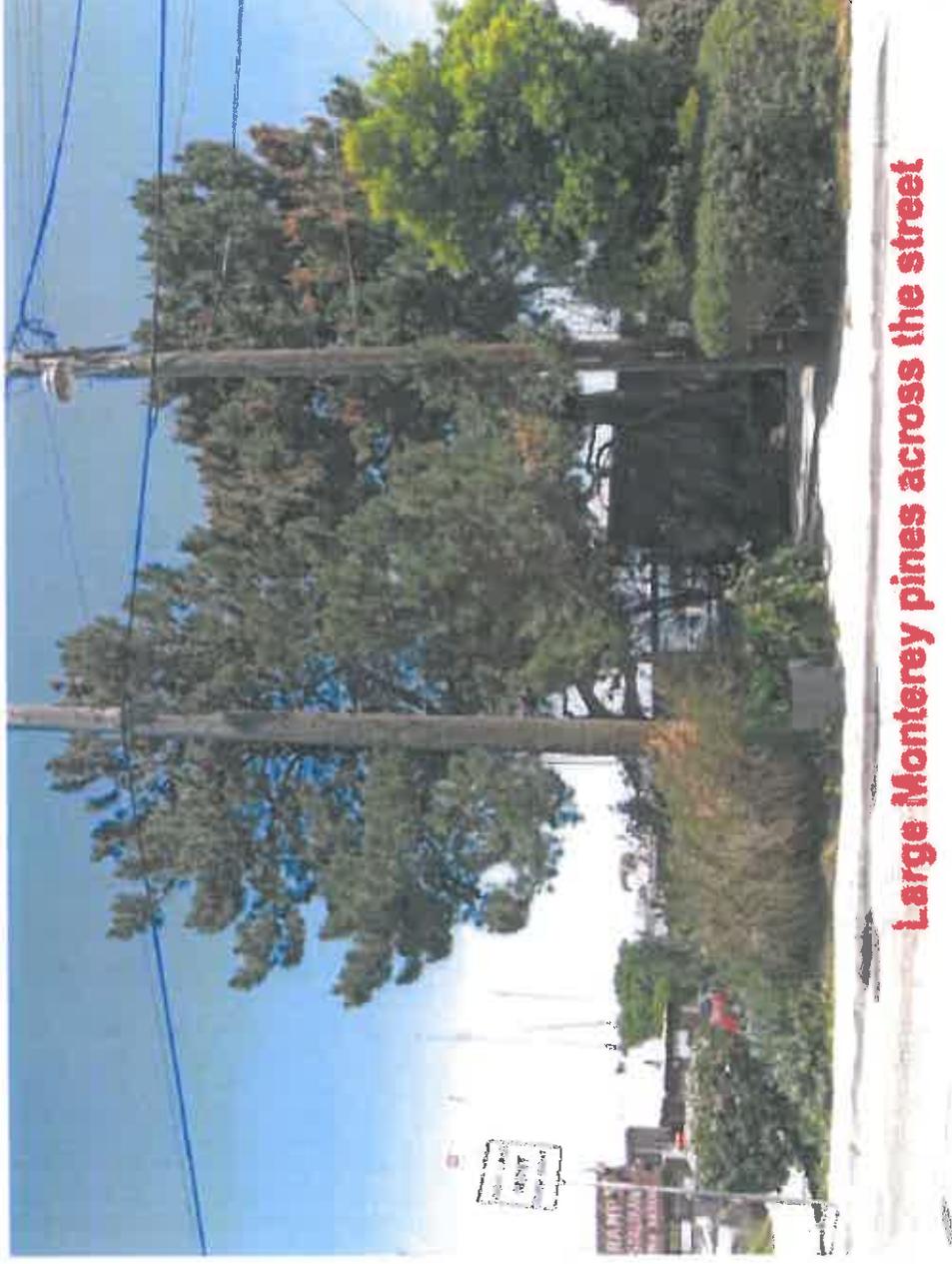


Exhibit D



Large Monterey pines across the street

Exhibit D

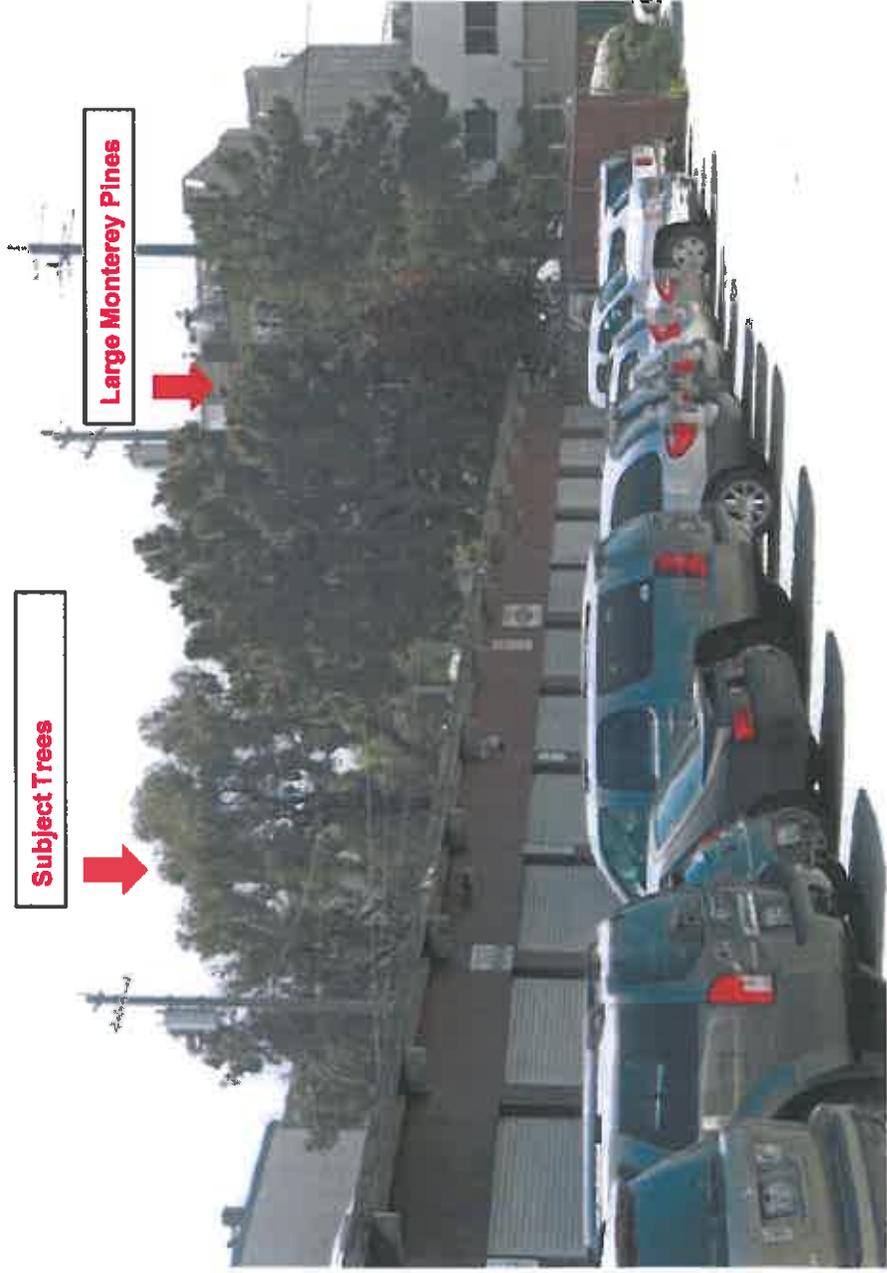
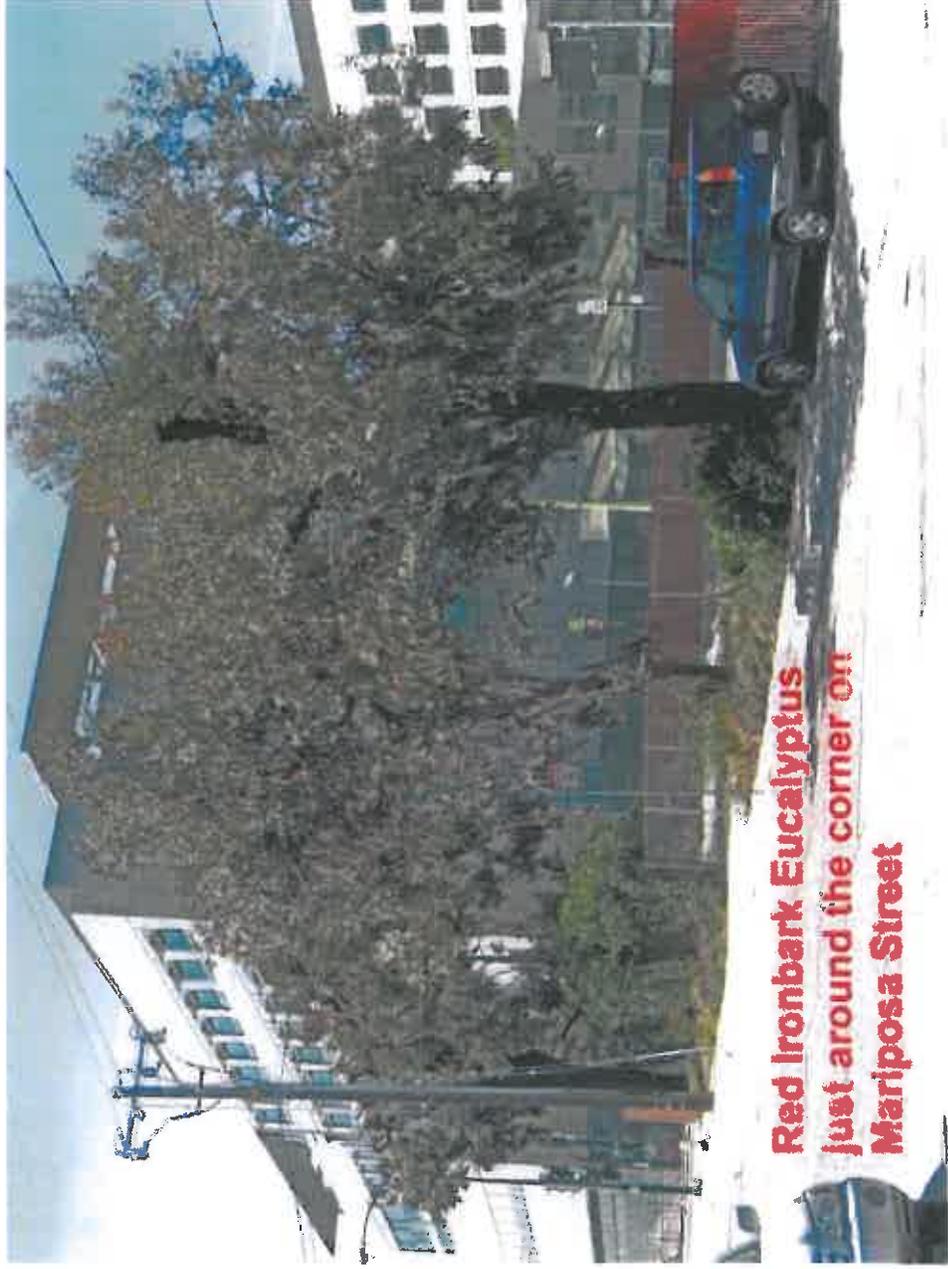


Exhibit D



**Red Ironbark Eucalyptus
just around the corner on
Mariposa Street**

EXHIBIT E



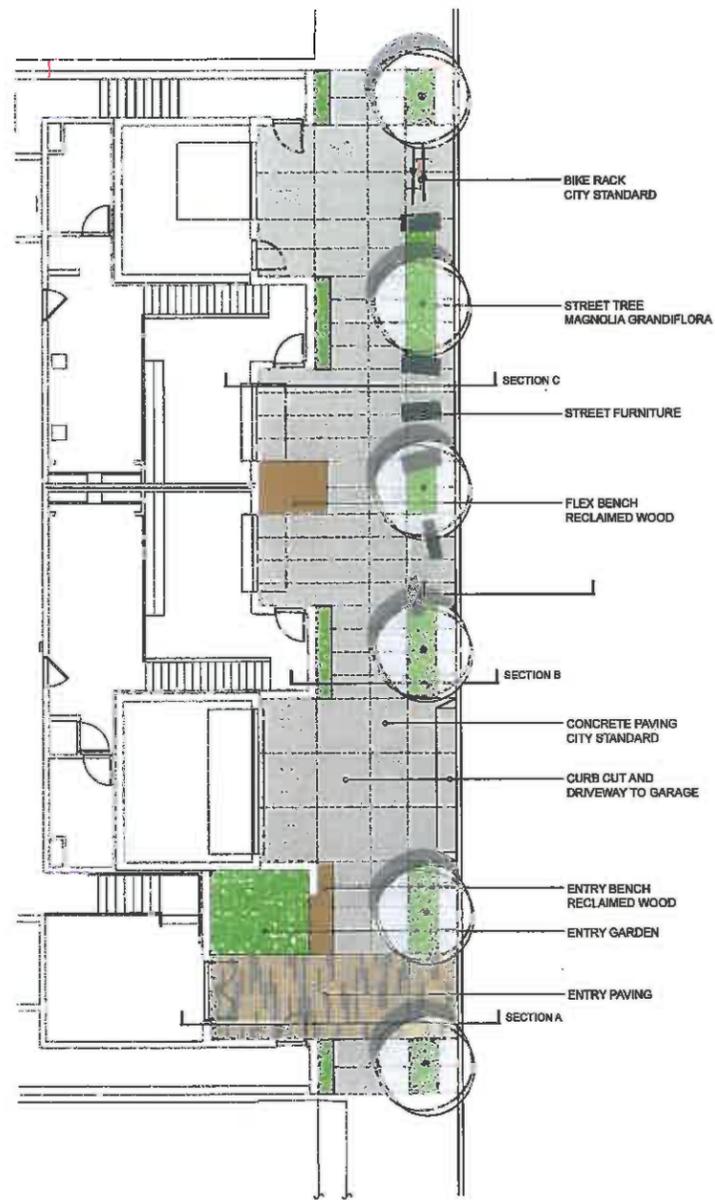
ILLINOIS STREET PERSPECTIVE - REVISED DESIGN

A32

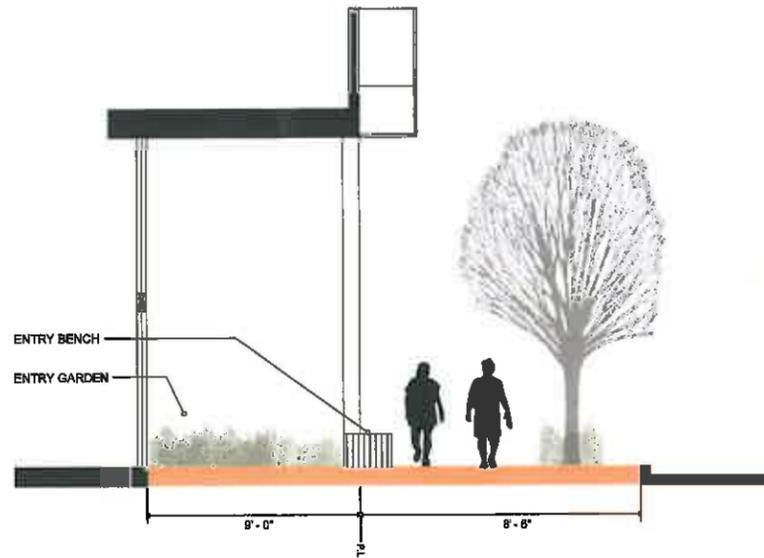
2051 THIRD STREET

SAN FRANCISCO, CA

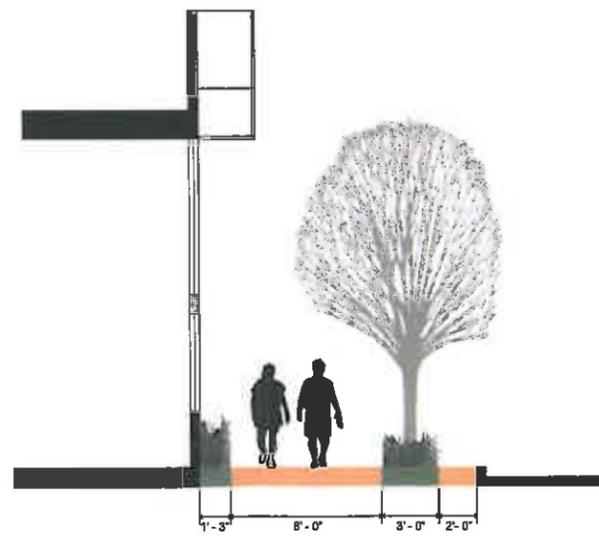
APRIL 18, 2014



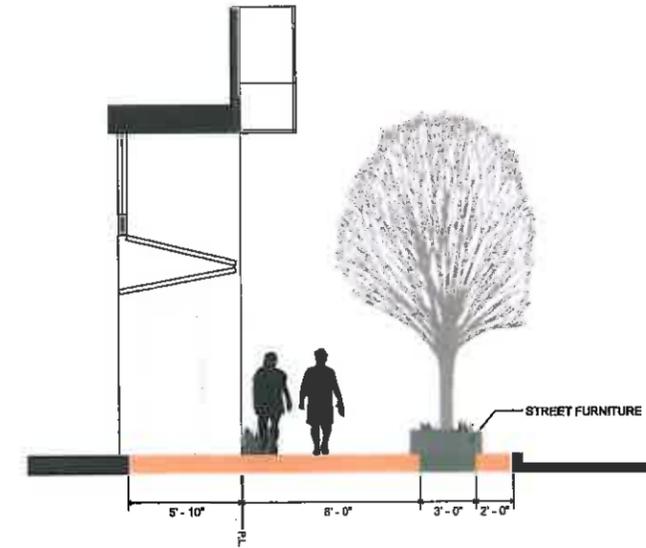
ILLINOIS STREET STREETScape - PLAN
SCALE: 1/8" = 1'-0"



3RD STREET STREETScape - SECTION A
SCALE: 1/4" = 1'-0"



ILLINOIS STREET STREETScape - SECTION A
SCALE: 1/4" = 1'-0"



ILLINOIS STREET STREETScape - SECTION B
SCALE: 1/4" = 1'-0"

ILLINOIS STREET PLAN AND SECTIONS

L4



2051 THIRD STREET

SAN FRANCISCO, CA APRIL 10, 2014

A B C H

ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREON CONSTITUTE ORIGINAL AND UNPUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED, USED OR DISCLOSED WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.



ILLINOIS STREET PERSPECTIVE - LOBBY ENTRY AND DRIVEWAY

L5



2051 THIRD STREET

SAN FRANCISCO, CA

APRIL 10, 2014

ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREIN CONSTITUTE ORIGINAL, AND UNPUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED, USED OR DISCLOSED WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.

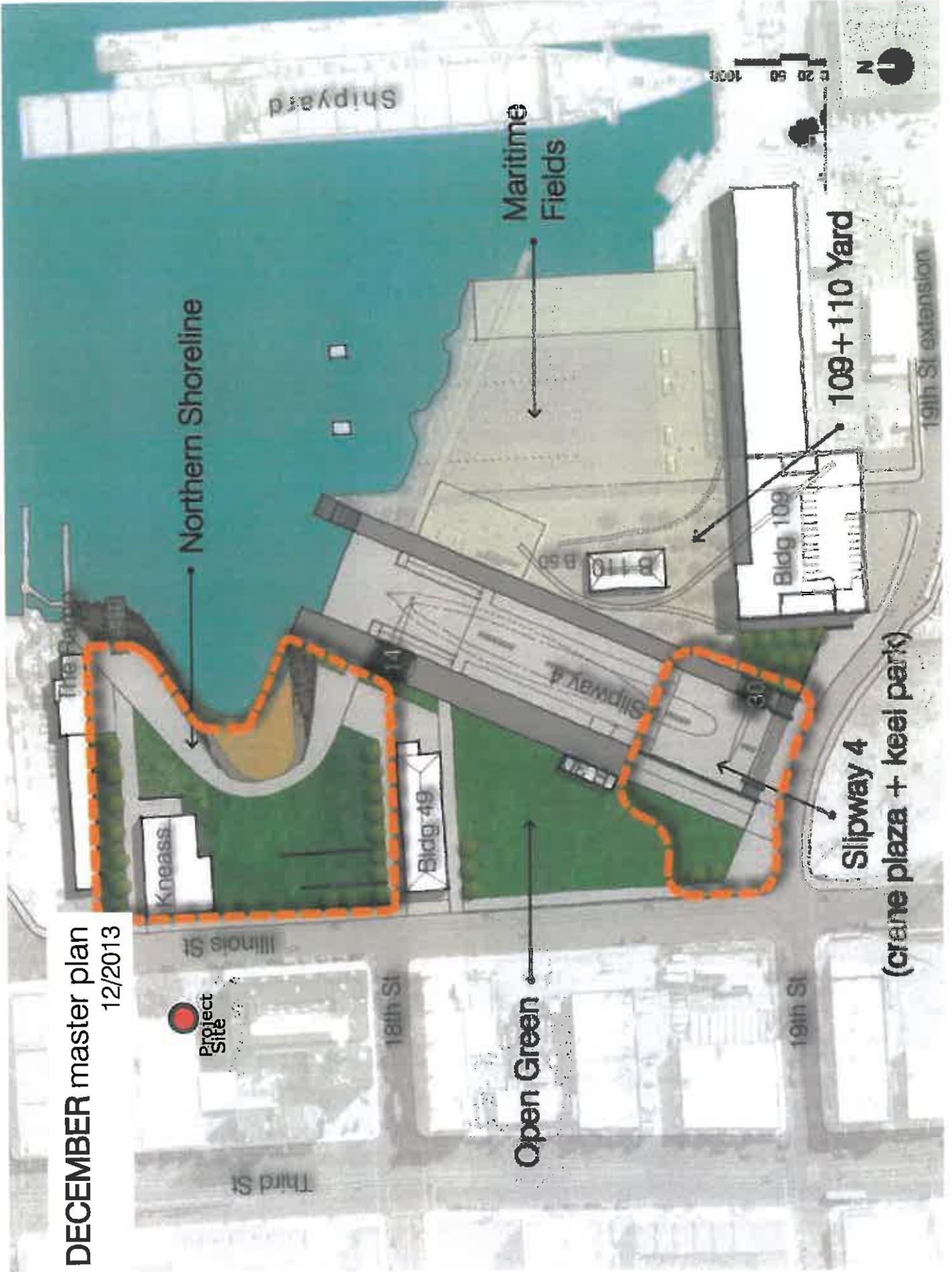


ILLINOIS STREET PERSPECTIVE - FLEX SPACE

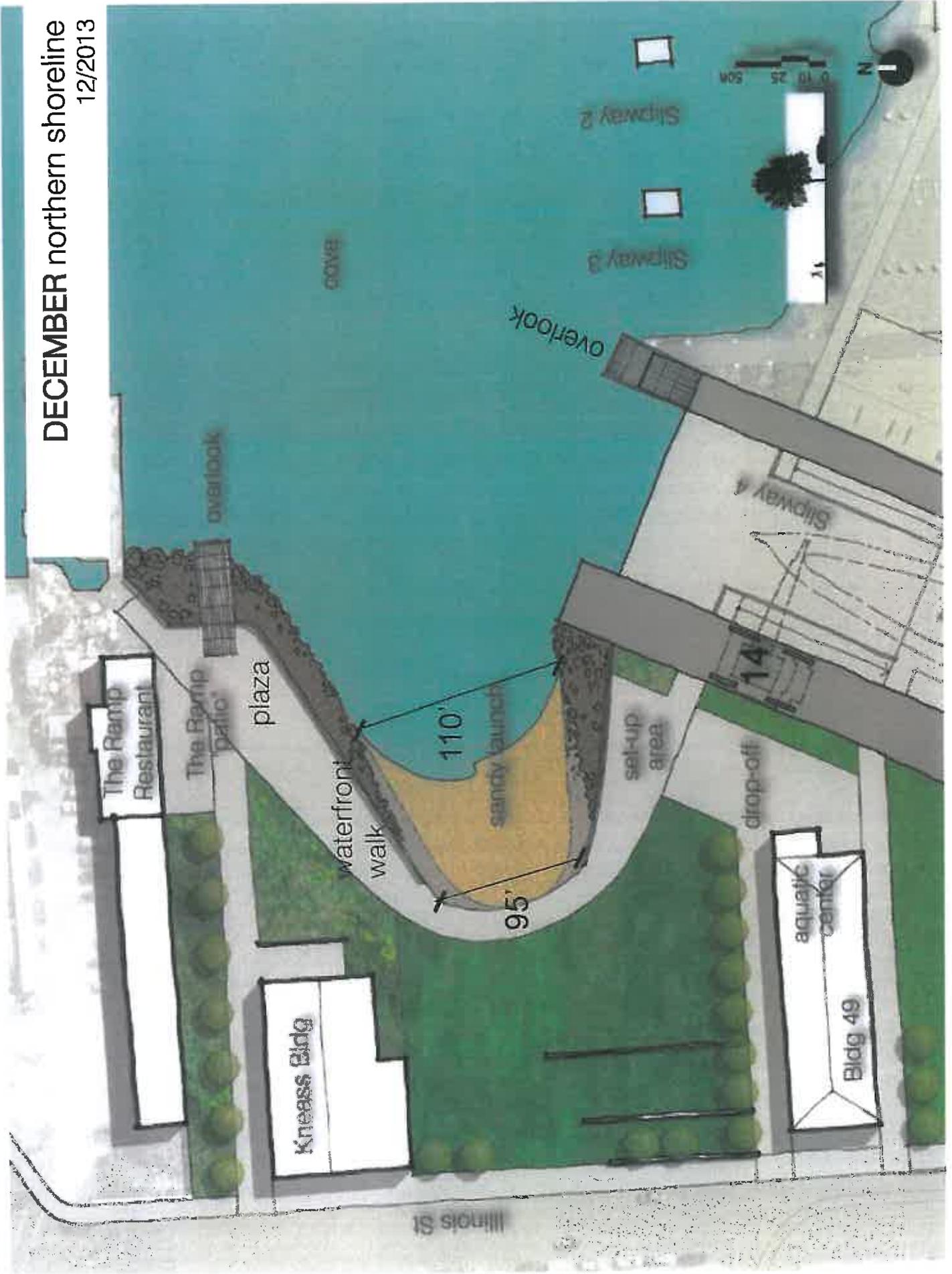
L6

EXHIBIT F

DECEMBER master plan
12/2013



DECEMBER northern shoreline
12/2013



DECEMBER northern shoreline
12/2013



EXHIBIT G

1 [Landmark Designation nomination for **Mary Ellen Pleasant Trees** located at 1661 Octavia Street.]

2
3 **Resolution of intent initiating the nomination of the mature blue gum (*Eucalyptus globulus*)**
4 **trees located at 1661 Octavia Street (Assessor's Block 647 lot 002) for landmark tree status**
5 **pursuant to Public Works Code Section 810(b), acknowledging the temporary designation**
6 **of such tree pursuant to Public Works Section 810(d), and authorizing other official acts in**
7 **furtherance of the Resolution.**

8
9 WHEREAS, a landmark tree is a tree on private or public property that has **special**
10 **characteristics** including size, age, historical significance, and cultural value; and,

11 WHEREAS, **Mary Ellen Pleasant planted the trees** at 1661 Octavia Street giving them an
12 **important historical association**; and,

13 WHEREAS, Mary Ellen Pleasant, was a significant figure in San Francisco's history. Ms
14 Pleasant was a 19th Century female entrepreneur of partial African descent who used her fortune
15 to further abolition. She worked on the Underground Railroad across many states and then helped
16 bring it to California during the Gold Rush Era. She was a friend and financial supporter of John
17 Brown and well known in abolitionist circles. After the Civil War she took her battles to the courts
18 and won several civil rights victories, one of which was cited and upheld in the 1980's and
19 resulted in her being called, "The Mother of Human Rights in California"; and,

20 WHEREAS, Landmark trees have an especially prominent and beautiful visual impact and
21 are of notable size; and,

22 WHEREAS, these trees **have been profiled in print and other media coverage**, including
23 The Trees of San Francisco by Michael Sullivan; and,

24 WHEREAS, The Board of Supervisors passed Ordinance Number 17-06, an amendment
25 to Public Works Code - Sections 801, landmark trees, significant trees, and penalties for violations

1 in support of a landmark tree program a copy of said Ordinance is on file with the Clerk of the
2 Board of Supervisors in file number 051458 which is incorporated herein by reference; and,

3 WHEREAS, The City's Urban Forestry Council developed landmark tree designation
4 criteria, forms, and procedure and the Board of Supervisors, in Resolution Enacted Number 440-
5 06, adopted said criteria. A copy of such Resolution is on file with the Clerk of the Board of
6 Supervisors file Number 060487 which is incorporated herein by reference; and, be it

7 RESOLVED, The Board, pursuant to Public Works Code Section 810(b), hereby
8 adopts this Resolution of intent to initiate landmark tree designation for the mature blue gum
9 (Eucalyptus globulus) trees located at 1661 Octavia Street (Assessor's Block 647 lot 002), and
10 acknowledges the temporary designation of such tree for landmark tree status pursuant to Public
11 Works Code Section 810(d); and, be it,

12 FURTHER RESOLVED, The Board directs the Clerk to forward this Resolution and
13 accompanying documents contained in the file to the Urban Forestry Council to begin the
14 landmark tree designation process for the subject tree; and, be it,

15 FURTHER RESOLVED, The Board urges the Director of Public Works to immediately
16 notify the affected property owner of the pending nomination and inform said owner of the special
17 permit and approval requirements for removal of landmark trees under Public Works Code
18 Section 810(f) if such notification has not yet occurred.



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Resolution

File Number: 071405

Date Passed:

Resolution of intent initiating the nomination of the mature blue gum (*Eucalyptus globulus*) trees located at 1661 Octavia Street (Assessor's Block 647 lot 002) for landmark tree status pursuant to Public Works Code Section 810(b), acknowledging the temporary designation of such tree pursuant to Public Works Section 810(d), and authorizing other official acts in furtherance of the Resolution.

October 16, 2007 Board of Supervisors — ADOPTED

Ayes: 9 - Alioto-Pier, Ammiano, Elsbernd, Chu, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

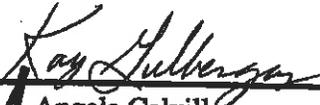
Absent: 2 - Daly, Dufty

File No. 071405

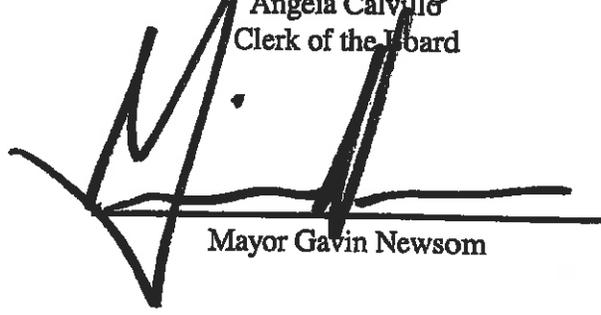
I hereby certify that the foregoing Resolution was ADOPTED on October 16, 2007 by the Board of Supervisors of the City and County of San Francisco.

10/22/2007

Date Approved



Angela Calvillo
Clerk of the Board

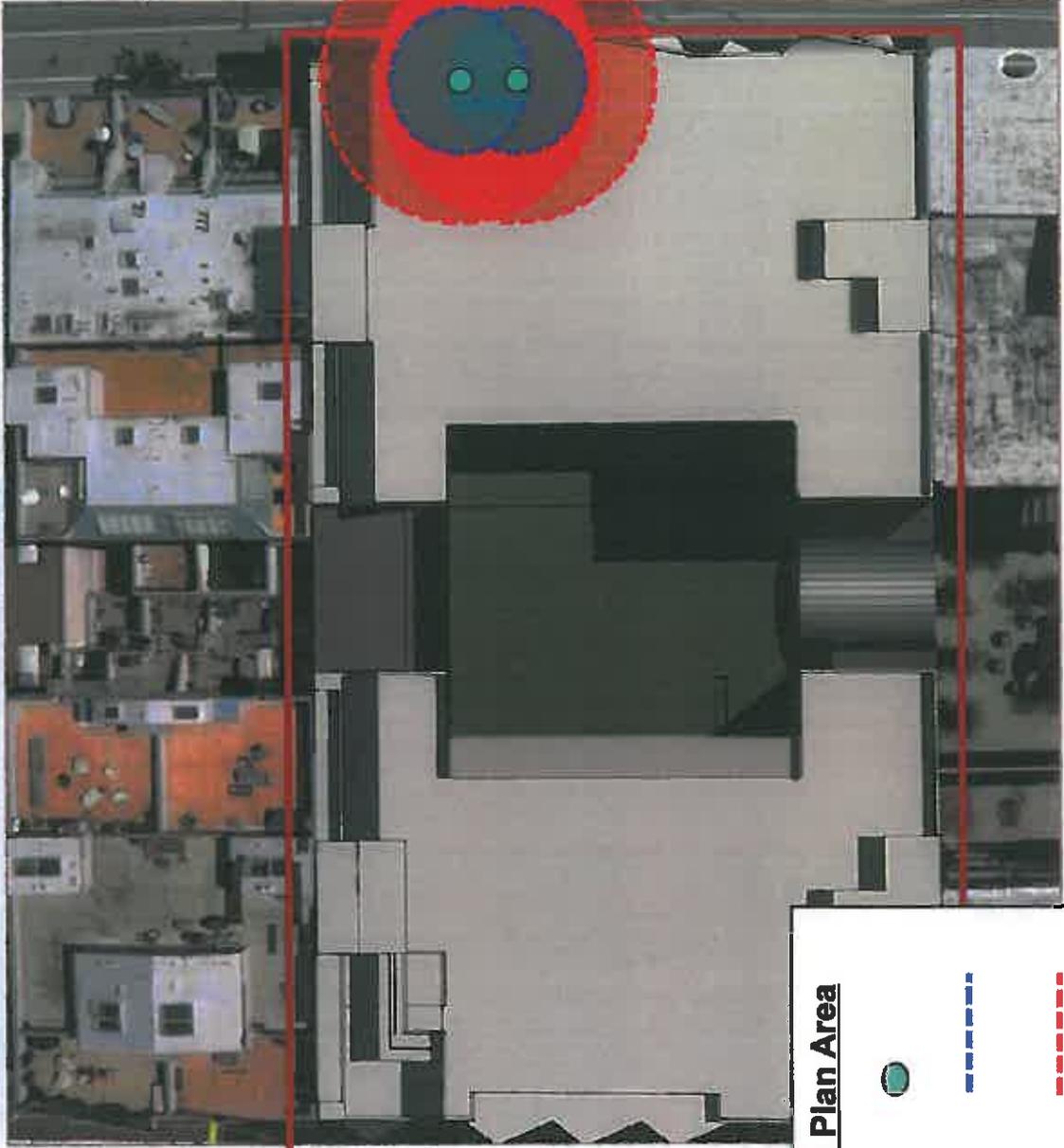


Mayor Gavin Newsom

EXHIBIT H

Impact to Site Plan

Proposed Project



Third Street

Illinois Street

Subject Trees

Tree Protection Plan Area

- Tree Trunk Location 
- Structural Roots - 15 ft radius 
- Water Absorbing Roots - 30 ft radius 

Velez, Xiomara (PAB)

From: careynassanomiller@gmail.com on behalf of Carey N. Miller <carey@citypointsf.com>
Sent: Wednesday, May 07, 2014 3:43 PM
To: San Francisco Board of Appeals
Subject: APPEAL NO. 14-058 - 2051 3rd Street

BOARD OF APPEALS
MAY 07 2014
APPEAL # 14-058

To whom it may concern at the Board of Appeals,

I would like to voice my support for the development at 2051 3rd Street in the full scope of Raintree Partner's project. The challenge to this development on behalf of 6 eucalyptus trees is a classic example of neighbors putting individual interest ahead of city necessity. This city is in the midst of a very serious housing-crisis which even with the Mayor's best efforts to produce 30k new units by 2020, is probably about 70k units away from actually affecting market rate at all. What the city does not have is a very serious eucalyptus tree-shortage problem. This is very clearly a maneuver by neighbors to keep their views in tact, no different than the effort recently to keep high rise views in tact when the 8 Washington project was defeated by wealthy donors using environmental groups as a go-between.

While I fully respect a neighbor's right to voice their concerns about the development of an adjacent project, the reality here is that the trees are a vehicle for personal interest which goes by the abbreviation "NIMBY." While that term is often over used, and thrown around incorrectly, this is a pretty cut and dried case of it and I urge you to see this appeal for what it is and deny it. The city needs more units and needs to support its developers over the interests of a few windows and trees.

Thank you

--
Carey N. Miller

City Point Realty

350 Rhode Island St., Suite 240
San Francisco, CA 94103
B.R.E Lic N°.01946701
O- 415.202.6363
C- 312.480.8494
carey@citypointsf.com