

To: City and County of San Francisco From: Trevor Macenski, Senior Principal  
 File: 469 Stevenson Street Project Date: August 21, 2018

Reference: **CEQA Streamlining Strategies for 469 Stevenson Street Project**

The 469 Stevenson Street Project (Project) includes the demolition of the existing 28,790 sf surface commercial parking lot with 176 parking spaces and construction of a new 28-story, 335-foot tall building containing residential uses. The proposed building would include 439 dwelling units, 219 below-grade parking spaces, Class 1 and 2 bicycle parking spaces, and 6,902 gross square feet of ground-floor retail and 398,209 gross square feet of residential use, for a total of 495,138 gross square feet of uses. The Project site is located within the Downtown Area Plan; and within the Downtown General Commercial Zoning District and 160-F Height and Bulk District. One of the goals of the Downtown Area Plan is to expand the supply of housing in and adjacent to downtown and encourage residential uses on underutilized commercial and industrial areas.

Though located in the Downtown Area Plan, the City has not adopted an Environmental Impact Report (EIR) for the Downtown Area Plan. Likewise, environmental impacts associated with the project site have not been disclosed in any other City planning area EIRs. The Project is an infill development and therefore, may qualify for certain exemptions or limited environmental review under Senate Bills (SB) 375 and 226.

Stantec has prepared this memo for the City and County of San Francisco (City) to identify possible CEQA Streamlining strategies and their applicability to the Project. This memo evaluates four streamlining strategies. As demonstrated below, the Project may qualify for streamlining under Class 32 (infill exemption) and SB 375 (PRC 21155.2). The Project however, would not qualify for SB 375 (PRC 21155.1) and infill exemption 18153.3. The qualifying criteria is noted in non-italicized text, and the project's eligibility determination is noted in italics.

**APPLICABLE CEQA STREAMLINING STRATEGIES**

**Class 32 (Infill Exemption)**

Among the classes of projects that are exempt from CEQA review are those projects that are specifically identified as urban infill development. CEQA Guidelines Section 15332 define infill development (or Class 32 exemptions) as being applicable to projects meeting specific criteria. Even if a project is ordinarily exempt under any of the potential categorical exemptions, CEQA Guidelines Section 15300.2 provides specific instances where exceptions to otherwise applicable exemptions apply. Class 32 exemptions are applicable to projects meeting the following conditions:

- a. The project is consistent with the applicable General Plan designation and all applicable General Plan policies, as well as with applicable zoning designation and regulations. *(The Project is consistent.)*
- b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. *(The Project is consistent.)*
- c. The project site has no valued habitat for endangered, rare, or threatened species. *(Pending findings of Initial Study but given location and current use of the project site, it is anticipated that the Project is consistent.)*
- d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. *(Pending findings of Initial Study.)*
- e. The site can be adequately served by all required utilities and public services. *(Pending findings of Initial Study.)*

Additionally, a categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

Design with community in mind

**Comment [JR1]:** The overall outcome of this memo is two options, assuming there are no significant and unavoidable impacts from the project:

1. Pursue the SCEA route which has a higher level of defensibility, but is not a document type the City has prepared before. This would require some additional effort in our review of the document and overall process to make sure we are meeting the requirements of the SCEA pursuant to CEQA and meeting our obligations under Chapter 21 of the administrative code. Also this type of document could be confusing to the public as it would be the first time they are seeing an SCEA. In general, EP is supportive of pursuing this option.
2. Prepare an MND. This document would be easier to prepare as the City has prepared many before. The document would be subject to the fair argument standard however.

**Comment [LW2]:** Confirm Project Description. Does not reflect EEA Submittal on 06/25/18.

**Comment [JR3]:** The project is in the air pollutant exposure zone and will likely require mitigation measures to address construction emissions and emissions from a diesel backup generator, which is required for buildings of this size typically.

**Comment [LW4]:** Note: We would not prepare an initial study for a Class 32, but we would need the technical analysis to be completed.



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**What this means for the Project:** *The 469 Stevenson Street Project qualifies for exemption under the provisions of the Class 32 Infill Exemption, pending findings of the Initial Study relating to traffic, noise, air quality, water quality, utilities, and public services. According to the State Water Resources Control Board online GeoTracker Database, the project site is not identified the cortese list pursuant to Section 65962.5 of the Government Code. While this exemption applies to the Project (pending findings of the Initial Study), historically the City has preferred not to use this exemption for projects of this size.*

**SB 375 (PRC 21155.2) -Sustainable Communities Environmental Assessment**

In order for a Transit Priority Project (TPP) or a Mixed-Use Residential Project to be eligible for the SB 375 CEQA provisions, it must be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy (Public Resources Code [PRC] Section 21155(a) and 21159.28). The project site is located in a Priority Development Area and Transit Priority Area as identified by Association of Bay Area Governments (ABAG) (Downtown-Van Ness-Geary [San Francisco]) in the Plan Bay Area 2040. Therefore, a Sustainable Communities Environmental Assessment (SCEA) prepared pursuant to Section 21155.2 of the Public Resources Code (PRC) would be an appropriate CEQA document.

A SCEA is similar to a mitigated negative declaration. The Initial study must identify all significant/potentially significant impacts and identify adequately addressed cumulative effects in prior applicable certified EIRs (which would be the General Plan EIR or Plan Bay Area EIR for this Project). The SCEA is reviewed under 'substantial evidence standard'; thus, making it a more legally defensible document than a mitigated negative declaration.

The following information demonstrates that the Project is a qualified TPP pursuant to the requirements of PRC Section 21155.2:

**Plan Bay Area 2040 Consistency Determination**

The project must be consistent with the general land use designation, density, building intensity, and applicable policies specified for the project area in the Plan Bay Area 2040, and the State Air Resources Board must agree that the Plan Bay Area 2040 will achieve applicable greenhouse gas emissions reductions targets (PRC Section 21155(a)).

*The Plan Bay Area 2040 was adopted jointly by ABAG and Metropolitan Transportation Commission in July 2017. On June 25, 2018, the State Air Resources Board, by Executive Order No. G-18-047, accepted the determination by ABAG that implementation of the Plan Bay Area 2040 would achieve the greenhouse gas emission reduction targets.*

*The Plan Bay Area 2040 identifies the subject property as falling within the Downtown and Transit Rich Corridors Priority Development Area of San Francisco City. This large, very urban Priority Development Area includes many evolving and interconnected neighborhoods that are well-covered by rail, bus and ferry service. The former industrial zones surrounding downtown will convert to mixed residential, neighborhood commercial, and light industrial uses. Housing development is expected along new rapid bus corridors on Geary Boulevard and Van Ness Avenue.*

*The policies of the Plan Bay Area 2040 document are embedded in the metrics and growth forecast assumption of the Plan Bay Area 2040 document. For the purposes of determining consistency, projects consistent with the growth forecast assumptions of the Plan Bay Area 2040 are consistent with these policies. The proposed 469 Stevenson Street Project is consistent with the growth forecast assumptions because it is located within the Priority Development Area, and is consistent with the allowed uses, densities and intensities of the applicable adopted local land use plan (in this case, the City's 2030 General Plan).*

*To date either ABAG or Metropolitan Transportation Commission have not initiated a formal process to determine consistency with Plan Bay Area 2040. But based on our experience, the Project would be consistent with Plan Bay Area 2040.*

**Comment [JR5]:** We would use this exemption if the project qualifies and there would be no significant impact requiring mitigation. That is unlikely for a project of this size.

**Comment [JR6]:** Given that there is no formal process for this determination, it could be an issue. However, if we received correspondence from ABAG or MTC that the project is consistent with the general land use designation, density, building intensity and policies of Plan Bay Area 2040, then that would constitute our evidence to support this.

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**Land Use**

The project must contain at least 50% residential use, based on total building square footage. If the project contains between 26% and 50% nonresidential uses, a floor area ration of not less than 0.75 is required (PRC Section 21155(b)(1)).

*The Project is comprised of 6,902 gross sf of retail uses and 398,209 gross sf of residential use. Residential use is approximately 98% of the total square footage. The FAR is 14 (405,111 ÷ 0.66 ac).*

**Density**

The project must provide a minimum net density of at least 20 dwelling units per acre (du/ac) (PRC Section 21155(b)(2)).

*The proposed residential density of the project is 664 du/ac (439 du ÷ 0.66 ac).*

**Proximity to Transit**

1) The project must be located within a Transit Priority Area studied within the Plan Bay Area 2040; and 2) No more than 25% of the project area can be farther than one-half mile from the major transit stop or high-quality transit corridor and no more than 10% of the residential units or 100 units (whichever is less) can be farther than one-half mile from the stop or corridor (PRC Section 21155(b)(3)).

*The Project is within a Transit Priority Area studied within the Plan Bay Area 2040. 100% of the Project is within one-half mile of the Powell Street BART Station and multiple light rail, and bus stops.*

**What this means for the Project:** *The 469 Stevenson Street Project qualifies for exemption under the provisions of SB 375 (PRC 21155.2) for a SCEA. Preparing a SCEA document for the Project would result in a legally defensible document under the 'substantial evidence standard' with shorter public review period and overall schedule than an EIR. However, it would be the first one in the City and, thus, there would likely be more time for review, requiring additional consultation.*

**NON-APPLICABLE CEQA STREAMLINING STRATEGIES**

**SB 375 (PRC 21155.1) - Transit Priority Project Exemption**

In order for a TPP or a Mixed-Use Residential Project to be eligible for the SB 375 CEQA provisions under PRC 21155.1, they must be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy (Public Resources Code [PRC] Section 21155(a) and 21159.28). In addition, they must meet the following land use criteria (PRC 21155.1(b)):

- a. TPP site is not more than eight acres. *(The Project is consistent.)*
- b. TPP does not contain more than 200 residential units. *(The Project is not consistent.)*
- c. TPP does not result in a net loss of affordable housing within the project area. *(The Project is consistent.)*
- d. TPP does not include any single level building exceeding 75,000 square feet. *(The Project is consistent.)*
- e. **Applicable mitigation measures or performance standards from prior EIRs have been incorporated.** *(The Project is not consistent.)*
- f. TPP does not conflict with nearby industrial uses. *(The Project is consistent.)*
- g. TPP is located within one-half mile of a rail transit station or high-quality transit corridor, or ferry terminal that have been included in a RTP. *(The Project is consistent.)*
- h. The TPP meets one of the following criteria (PRC Section 21155.1 (c)):

**Comment [JR7]:** I would call this streamlined review, not really an exemption.

**Comment [JR8]:** Comparing an SCEA to an EIR doesn't seem to be apples to apples. A more appropriate comparison seems to be an SCEA to an MND, which would have the same public review period. Although studies are not complete, I don't think an EIR is going to be necessary for this project.

**Comment [LW9]:** Project would not qualify as it is not consistent in certain areas.

**Comment [JR10]:** It is awkward to say that the project is not consistent with this because the City would require applicable mitigation measures be incorporated into the project as part of its determination.

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1. The TPP will sell at least 20% of housing to families of moderate income, 10% of housing will be rented to families of low income, or at least 5% of the housing is rented to families of very low income, and the developer provides legal commitments to ensure the continued availability of these housing units for very low-, low-, and moderate-income households. *(The Project is consistent.)*
2. The TPP developer has paid or will pay in-lieu fees sufficient to result in the development of the affordable units described above, and *(The Project is consistent.)*
3. The TPP provides public open space equal or greater than 5 acres per 1,000 residents of the project. *(The Project is not consistent.)*

**What this means for the Project:** *The 469 Stevenson Street Project would meet the exemption criteria under Resources Code [PRC] Section 21155(a) and 21159.28. However, the Project would contain more than 200 units and therefore, would not qualify for exemption under PRC 21155.1(b).*

**SB 226 Infill Exemption – 15183.3**

SB 226 which is codified in Section 15183.3 of the CEQA Guidelines allows streamlining for certain qualified infill projects by limiting the topics subject to review at the project level, if the effects of infill development have been addressed in a planning level decision, or by uniformly applicable development policies. SB 226 creates an easier path for infill development by narrowing the scope of impacts that need to be analyzed at the project level. Impacts of a project that were already addressed at a programmatic level are not subject to CEQA, even if those impacts remain significant. Impacts that are addressed by local development policies or standards, such as construction noise ordinances and traffic impact fees, are not subject to CEQA either, even if such policies do not fully mitigate the impact. As a practical matter, this means infill projects can avoid lengthy EIRs and instead be approved on the basis of a checklist, without going through new public review, preparing responses to comments, or a statement of overriding considerations. In addition to being evaluated as part of CEQA review in a prior EIR or in a planning level decision, to be eligible for the streamlining procedures pursuant CEQA Guidelines Section 15183.3, an infill project must:

- a. Be located in an urban area on a site that either has been previously developed or that adjoins existing qualified urban uses on at least 75 percent of the site's perimeter. *(The Project is consistent.)*
- b. Satisfy the performance standards provided in Appendix M.
  1. **Renewable Energy.** All non-residential projects shall include on-site renewable power generation, such as solar photovoltaic, solar thermal and wind power generation, or clean backup power supplies, where feasible. Residential projects are also encouraged to include such on-site renewable power generation. *(The 469 Stevenson Street Project is a residential use and this standard does not apply.)*
  2. **Soil and Water Remediation.** If the project site is included on any list compiled pursuant to Section 65962.5 of the Government Code, the project shall document how it has remediated the site, if remediation is completed. Alternatively, the project shall implement the recommendations provided in a preliminary endangerment assessment or comparable document that identifies remediation appropriate for the site. *(The Project is not located on a remediation site.)*
  3. **Residential Units Near High-Volume Roadways and Stationary Sources.** If a project includes residential units located within 500 feet, or other distance determined to be appropriate by the local agency or air district based on local conditions, of a high volume roadway or other significant sources of air pollution, the project shall comply with any policies and standards identified in the local general plan, specific plan, zoning code or community risk reduction plan for the protection of public health from such sources of air pollution. If the local government has not adopted such plans or policies, the project shall include measures, such as enhanced air filtration and project design, that the lead agency finds, based on substantial evidence, will promote the protection of public health from sources of air pollution. Those measure may include, among others, the recommendations of the California Air Resources Board, air districts, and the California Air Pollution Control Officers Association. *(The Project would be consistent.)*

**Comment [LW11]:** Project was not included as part of an Area Plan EIR. Project would not qualify as it is in consistent.

**Comment [JR12]:** Note that the green building code requires that a certain percentage of the building roof be a green roof or have solar panels. Depending on how the project sponsor chooses to comply with this requirement, the project could meet this performance standard.



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- a. Where a project includes some combination of residential, commercial and retail, office building, transit station, and/or schools, the performance standards in this Section that apply to the predominant use shall govern the entire project. Because the primary land use in the 469 Stevenson project is residential, the project must satisfy one of the following residential eligibility criteria:
  - i. Projects achieving below average regional per capita vehicle miles traveled (VMT). A residential project is eligible if it is located in a "low vehicle travel area" within the region. *(Pending findings of Traffic Study.)*
  - ii. Projects located within  $\frac{1}{4}$  mile of an Existing Major Transit Stop or High Quality Transit Corridor. A residential project is eligible if it is located within  $\frac{1}{2}$  mile of an existing major transit stop or an existing stop along a high quality transit corridor. *(The Project would be consistent.)*
  - iii. Low-Income Housing. A residential or mixed-use project consisting of 300 or fewer residential units all of which are affordable to low income households is eligible if the developer of the development project provides sufficient legal commitments to the lead agency to ensure the continued availability and use of the housing units for lower income households, as defined in Section 50079.5 of the Health and Safety Code, for a period of at least 30 years, at monthly housing costs, as determined pursuant to Section 50053 of the Health and Safety Code. *(The Project would be consistent.)*
- c. Be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy. *(The Project is consistent.)*

Comment [JR13]: The project would meet this

Comment [JR14]: ?

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**What this means for the Project:** *The 469 Stevenson Street Project would not qualify for this exemption. The Project is consistent with the General Plan designation, density and building intensity. However, the Project was not evaluated as part of CEQA review in a prior EIR for a planning level decision. Therefore, the Project would not be able to rely on an existing environmental analysis for impact analysis and mitigations measures.*

Let me know if you would like to discuss this further.

STANTEC CONSULTING SERVICES INC.

Trevor Macenski

Senior Principal, Assessment and Permitting  
Phone: (916) 508-4170  
Trevor.Macenski@stantec.com