DATE: October 12, 2015
TO: Ian Birchall & Associates
FROM: Delvin Washington, Planning Department
RE: PPA Case No. 2015.009053PPA for 3601 Lawton Street

Please find the attached Preliminary Project Assessment (PPA) for the address listed above. You may contact the staff contact, Jeff Horn, at (415) 575-6925 or jeffrey.horn@sfgov.org, to answer any questions you may have, or to schedule a follow-up meeting.

Delvin Washington, Senior Planner
Preliminary Project Assessment

Date: October 12, 2015
Case No.: 2015.009053PPA
Project Address: 3601 Lawton Street
Block/Lot: 190/001
Zoning: NC-1 - Neighborhood Commercial, Cluster 40-X Height and Bulk District
Area Plan: None
Project Sponsor: Ian Birchall & Associates
251 South Van Ness Avenue, Suite 300
San Francisco, CA 94103
(415) 512-9660
Staff Contact: Jeff Horn – (415) 575-6925
jeffrey.horn@sfgov.org

DISCLAIMERS:

This Preliminary Project Assessment (PPA) letter provides feedback to the project sponsor from the Planning Department regarding the proposed project described in the PPA application submitted on 7/16/2015, as summarized below. This PPA letter identifies Planning Department review requirements for the proposed project, including those related to environmental review, approvals, neighborhood notification and public outreach, the Planning Code, project design, and other general issues of concern for the project. Please be advised that the PPA application does not constitute an application for development with the Planning Department. The PPA letter also does not represent a complete review of the proposed project, does not grant a project approval of any kind, and does not in any way supersede any required Planning Department approvals listed below.

The Planning Department may provide additional comments regarding the proposed project once the required applications listed below are submitted. While some approvals are granted by the Planning Department, some are at the discretion of other bodies, such as the Planning Commission or Historic Preservation Commission. Additionally, it is likely that the project will require approvals from other City agencies such as the Department of Building Inspection, Public Works, the Municipal Transportation Agency, Department of Public Health, San Francisco Public Utilities Commission, and others. The information included herein is based on the PPA application and plans, the Planning Code, General Plan, Planning Department policies, and local/state/federal regulations as of the date of this document, all of which are subject to change.

PROJECT DESCRIPTION:

The project site consists of a square shaped lot at the southwest corner of Lawton Street and 42nd Avenue. The property is developed with a gas station that was constructed in 1966 and has two driveway entrances at the Lawton Street frontage and two driveway entrances at the 42nd Avenue frontage.
The proposal is for the demolition of an existing 1,463-square-foot gas station and construction of four 36'-10”-foot-tall, four-story three-unit residential buildings totaling 26,672-gross-square-foot (28,379-square-foot including parking) on a 10,000-square-foot lot. The project site is proposed to be subdivided into four 2,500-square-foot parcels, which would each contain three residential units and associated parking spaces and open space. A common driveway and 12 parking spaces, which would be accessed from 42nd Avenue. The entrances to residences would be located at the ground floor level at Lawton Street.

ENVIRONMENTAL REVIEW:

In compliance with the California Environmental Quality Act (CEQA), the environmental review process must be completed before any project approval may be granted. This review may be done in conjunction with the required approvals listed below. In order to begin formal environmental review, please submit an Environmental Evaluation Application (EEA) for the full scope of the project. EEAs are available in the Planning Department lobby at 1650 Mission Street, Suite 400, at the Planning Information Center at 1660 Mission Street, and online at www.sfplanning.org under the “Publications” tab. See “Environmental Applications” on page 2 of the current Fee Schedule for calculation of environmental application fees. Note that until an entitlement application is submitted to the Current Planning Division, only the proposed Project Description will be reviewed by the assigned Environmental Coordinator.

If the additional analysis outlined below indicates that the project would not have a significant effect on the environment, the project could be eligible for a Class 32 infill development categorical exemption under CEQA Guidelines Section 15332. If a Class 32 exemption is appropriate, Environmental Planning staff will prepare a certificate of exemption.

If it is determined that the project could result in a significant impact, an initial study would be prepared. The initial study may be prepared either by an environmental consultant from the Department’s environmental consultant pool or by Department staff. Should you choose to have the initial study prepared by an environmental consultant, contact Devyani Jain at (415) 575-9051 for a list of three eligible consultants. If the initial study finds that the project would have a significant impact that could be reduced to a less-than-significant level by mitigation measures agreed to by the project sponsor, then the Department would issue a preliminary mitigated negative declaration (PMND). The PMND would be circulated for public review, during which time concerned parties may comment on and/or appeal the determination. If no appeal is filed, the Planning Department would issue a final mitigated negative declaration (FMND). Additional information regarding the environmental review process can be found at: http://www.sfplanning.org/modules/showdocument.aspx?documentid=8631.

If the initial study indicates that the project would result in a significant impact that cannot be mitigated to below a significant level, an EIR will be required. An EIR must be prepared by an environmental consultant from the Planning Department’s environmental consultant pool (http://www.sfplanning.org/ftp/files/MEA/Environmental_consultant_pool.pdf). The Planning Department will provide more detail to the project sponsor regarding the EIR process should this level of environmental review be required.

1 San Francisco Planning Department, Schedule for Application Fees. Available online at: http://www.sfplanning.org/Modules/ShowDocument.aspx?documentid=513
Below is a list of topic areas addressed through the environmental review process. Some of these would require additional study based on the preliminary review of the project as it is proposed in the PPA application.

1. **Historic Resources.** The project site contains one or more structures considered to be a potential historic resource (building constructed 45 or more years ago); therefore, the proposed alteration or demolition is subject to review by the Department’s Historic Preservation staff. To assist in this review, the project sponsor must hire a qualified professional to prepare a Historic Resource Evaluation (HRE) report. The professional must be selected from the Planning Department’s Historic Resource Consultant Pool. Please contact Tina Tam, Senior Preservation Planner, via email (tina.tam@sfgov.org) for a list of three consultants from which to choose. Please contact the HRE scoping team at HRE@sfgov.org to arrange the HRE scoping. Following an approved scope, the historic resource consultant should submit the draft HRE report for review to Environmental Planning after the project sponsor has filed the EE Application and updated it as necessary to reflect feedback received in the PPA letter. Historic Preservation staff will not begin reviewing your project until a complete draft HRE is received.

2. **Archeological Resources.** The project site is not located in an Archeological Sensitive Area as mapped by the Planning Department. The proposed project may require Preliminary Archeological Review (PAR) by a Planning Department archeologist. The PAR will assess the archeological sensitivity of the project site based on in-house source material and will consider the potential for archeological impacts resulting from proposed soils disturbance. Please provide detailed information, including sections, proposed soils-disturbing activities, such as grading, excavation, installation of foundations, soils improvement, and site remediation in the EEA, and submit any available geotechnical/soils or phase II hazardous materials reports prepared for the project to assist in this review.

**Tribal Cultural Resources.** Tribal cultural resources (TCRs) are a class of resource established under the California Environmental Quality Act (CEQA) in 2015. TCRs are defined as a site, feature, place, cultural landscape, sacred place or object with cultural value to a California Native American tribe, that is either included on or eligible for inclusion in the California Register of Historical Resources or a local historic register, or is a resource that the lead agency, at its discretion and supported by substantial evidence, determines is a TCR. Planning Department staff will review the proposed project to determine if it may cause an adverse effect to a TCR; this will occur in tandem with preliminary archeological review. No additional information is needed from the project sponsor at this time. Consultation with California Native American tribes regarding TCRs may be required at the request of the tribes. If staff determines that the proposed project may have a potential significant adverse impact on a TCR, mitigation measures will be identified and required. Mitigation measures may include avoidance, protection, or preservation of the TCR and development of interpretation and public education and artistic programs.

3. **Transportation.** Based on the PPA submittal, a transportation impact study is not anticipated; an official determination will be made subsequent to submittal of the EEA. In order to facilitate that determination, please provide the parking specifications of the proposed project on the plans submitted with the EEA.
4. Air Quality.

Criteria Air Pollutants
The proposed project, with 12 residential units, is below the Bay Area Air Quality Management District’s (BAAQMD) construction and operation screening levels for criteria air pollutants. However, detailed information related to cubic yards of excavation must be provided as part of the EEA.

Project-related demolition, excavation, grading and other construction activities may cause wind-blown dust that could contribute particulate matter into the local atmosphere. To reduce construction dust impacts, the proposed project will be required to adhere to the dust control requirements set forth in the Construction Dust Ordinance contained in San Francisco Health Code Article 22B and San Francisco Building Code Section 106.A.3.2.6.

Local Health Risk and Hazards
If the project would generate new sources of toxic air contaminants including, but not limited to, emissions from diesel generators or boilers, or any other stationary sources, the project would result in toxic air contaminants that may affect both on-site and off-site sensitive receptors and additional measures will likely be required to reduce stationary source emissions.

5. Greenhouse Gases. The City and County of San Francisco’s Strategies to Address Greenhouse Gas Emissions presents a comprehensive assessment of policies, programs, and ordinances that represents San Francisco’s Qualified Greenhouse Gas (GHG) Reduction Strategy. Projects that are consistent with San Francisco’s Qualified GHG Reduction Strategy would result in less-than-significant impacts from GHG emissions. In order to facilitate a determination of compliance with San Francisco’s Qualified GHG Reduction Strategy, the Planning Department has prepared a Greenhouse Gas Analysis Compliance Checklist. The project sponsor may be required to submit the completed table regarding project compliance with the identified regulations and provide project-level details in the discussion column. This information will be reviewed by the environmental planner during the environmental review process to determine if the project would comply with San Francisco’s Greenhouse Gas Reduction Strategy. Projects that do not comply with an ordinance or regulation may be determined to be inconsistent with the Greenhouse Gas Reduction Strategy.

6. Hazardous Materials. The proposed project would construct residential units on the site of an existing gas station. Therefore, the project is subject to Article 22A of the Health Code, also known as the Maher Ordinance. The Maher Ordinance, which is administered and overseen by the Department of Public Health (DPH), requires the project sponsor to retain the services of a qualified professional to prepare a Phase I Environmental Site Assessment (ESA) that meets the requirements of Health Code Section 22.A.6. The Phase I ESA would determine the potential for site contamination and level of exposure risk associated with the project. Based on that information, soil and/or groundwater

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2 BAAQMD, CEQA Air Quality Guidelines, May 2011, chapter 3.
sampling and analysis, as well as remediation of any site contamination, may be required. These steps are required to be completed prior to the issuance of any building permit.

DPH requires that projects subject to the Maher Ordinance complete a Maher Application, available at: http://www.sfdph.org/dph/EH/HazWaste/hazWasteSiteMitigation.asp. Fees for DPH review and oversight of projects subject to the ordinance would apply. Please refer to DPH’s fee schedule, available at: http://www.sfdph.org/dph/EH/FEES.asp#haz. Please provide a copy of the submitted Maher Application and Phase I ESA with the EEA.

Because the existing building was constructed prior to 1980, asbestos-containing materials, such as floor and wall coverings, may be found in the building. The Bay Area Air Quality Management District (BAAQMD) is responsible for regulating airborne pollutants including asbestos. Please contact BAAQMD for the requirements related to demolition of buildings with asbestos-containing materials. In addition, because of its age (constructed prior to 1978), lead paint may be found in the existing building. Please contact the San Francisco Department of Building Inspection (DBI) for requirements related to the demolition of buildings that may contain lead paint.

7. Tree Planting and Protection. The Department of Public Works Code Section 8.02-8.11 requires disclosure and protection of landmark, significant, and street trees located on private and public property. Any such trees must be shown on the site plans with the size of the trunk diameter, tree height, and accurate canopy drip line. Please submit the Tree Planting and Protection Checklist with the EEA and ensure that trees are appropriately shown on site plans. Also see the comments below under “Street Trees.”

8. Disclosure Report for Developers of Major City Projects. The San Francisco Ethics Commission S.F. Camp. & Govt. Conduct Code § 3.520 et seq. requires developers to provide the public with information about donations that developers make to nonprofit organizations that may communicate with the City and County regarding major development projects. This report must be completed and filed by the developer of any “major project.” A major project is a real estate development project located in the City and County of San Francisco with estimated construction costs exceeding $1,000,000 where either: (1) The Planning Commission or any other local lead agency certifies an EIR for the project; or (2) The project relies on a program EIR and the Planning Department, Planning Commission, or any other local lead agency adopts any final environmental determination under CEQA. A final environmental determination includes: the issuance of a Community Plan Exemption (CPE); certification of a CPE/EIR; adoption of a CPE/Final Mitigated Negative Declaration; or a project approval by the Planning Commission that adopts CEQA Findings. (In instances where more than one of the preceding determinations occur, the filing requirement shall be triggered by the earliest such determination.) A major project does not include a residential development project with four or fewer dwelling units. The first (or initial) report must be filed within 30 days of the date the Planning Commission (or any other local lead agency) certifies the EIR for that project or, for a major project relying on a program EIR, within 30 days of the date that the Planning Department, Planning Commission, or any other local lead agency adopts a final environmental determination under CEQA. Please submit a Disclosure Report for Developers of Major City Projects to the San Francisco Ethics Commission. This form can be found at the Planning Department or online at http://www.sfethics.org.
PLANNING DEPARTMENT APPROVALS:

The project requires the following Planning Department approvals. These approvals may be reviewed in conjunction with the required environmental review, but may not be granted until after the required environmental review is completed.

1. **Conditional Use Authorization** from the Planning Commission is required per Planning Code Section 202.5 for the demolition of a service station and per Planning Code Section 121.1 for the new construction of a building on a lot greater than 5,000 square feet in an NC-1 District.

2. **Variance.** As currently proposed, and as discussed under the ‘Preliminary Project Comments’ below, this project would need to seek and justify Variances from the open space, permitted obstructions and street frontages requirements of Planning Code Sections 135, 136 and 145.

3. A **Building Permit Application** is required for the demolition of the existing building on the subject property.

4. A **Building Permit Application** is required for the proposed new construction on the subject property.

Conditional Use Authorization, Gasoline Service Station Conversion and Variance applications are available in the Planning Department lobby at 1650 Mission Street, Suite 400, at the Planning Information Center at 1660 Mission Street, and online at [www.sfplanning.org](http://www.sfplanning.org). Building Permit applications are available at the Department of Building Inspection at 1660 Mission Street.

NEIGHBORHOOD NOTIFICATIONS AND PUBLIC OUTREACH:

Project Sponsors are encouraged, and in some cases required, to conduct public outreach with the surrounding community and neighborhood groups early in the development process. Additionally, many approvals require a public hearing with an associated neighborhood notification. Differing levels of neighborhood notification are mandatory for some or all of the reviews and approvals listed above.

This project is required to conduct a **Pre-Application** meeting with surrounding neighbors and registered neighborhood groups before a development application may be filed with the Planning Department. The Pre-Application packet, which includes instructions and template forms, is available at [www.sfplanning.org](http://www.sfplanning.org) under the “Permits & Zoning” tab. All registered neighborhood group mailing lists are available online at [www.sfplanning.org](http://www.sfplanning.org) under the “Resource Center” tab.

**Notification of a Project Receiving Environmental Review.** Notice may be required to be sent to occupants of the project site and properties adjacent to the project site, as well as to owners and, to the extent feasible, occupants of properties within 300 feet of the project site at the initiation of the environmental review process. Please be prepared to provide mailing addresses on a CD upon request during the environmental review process.
PRELIMINARY PROJECT COMMENTS:

The following comments address specific Planning Code and other general issues that may substantially impact the proposed project.

1. **Demolition of a Service Station.** Planning Code Section 202.5 requires Conditional Use Authorization from the Planning Commission to remove a service station. However, the Zoning Administrator shall approve the application and authorize a service station conversion if the Zoning Administrator determines from the facts presented that the owner of the subject property is not earning a Fair Return on Investment, as defined in Section 102. The owner shall bear the burden of proving that the owner is not earning a Fair Return on Investment.

2. **Rear Yard.** Section 134(a)(1)(A) requires the project to provide a rear yard of at least 25 percent of the lot depth at grade level and each succeeding level. Because this project is located on a corner site, one of the street frontages (Lawton Street or 42nd Avenue) must be designated as the front of the property, and the rear yard would then be provided based on that determination. It appears that Lawton has been determined to be the frontage for the proposal, and therefore the current project would need to seek and justify a variance for encroachment into the rear yard setback. Obstructions that are currently proposed include parking spaces, building walls, stairs and the 14-foot-high side yard wall on the ground floor, the stairs, building walls/firewalls and the common outdoor walkway on the second floor, and building walls/firewalls and balconies (See Section 136(c)(2)) on third and fourth floors. Please revise these features accordingly so that the rear yard is considered code-complying and does not require any variances.

3. **Street Frontages.** The frontages along Lawton Street and 42nd Avenue are zoned NC-1 and are required to have Active Uses per Section 145(c)(3). An "active use" shall mean any principal, conditional, or accessory use that by its nature does not require non-transparent walls facing a public street or involves the storage of goods or vehicles. Residential uses are considered active uses above the ground floor; on the ground floor, residential uses are considered active uses only if more than 50 percent of the linear residential street frontage at the ground level features walk-up dwelling units that provide direct, individual pedestrian access to a public sidewalk, and are consistent with the Ground Floor Residential Design Guidelines, as adopted and periodically amended by the Planning Commission. Please revise these frontages of Lawton Street and 42nd Avenue accordingly so that they are considered to have active uses and do not require any variances.

4. **Above-Grade Parking Setback.** Section 145(c)(1) requires that off-street parking at street grade on a development lot must be set back at least 25 feet on the ground floor, from any facade facing a street at least 30 feet in width. Parking is currently proposed within 25 feet of 42nd Avenue, please revise these features accordingly so that they are considered code-complying and do not require any variances.

5. **Permitted Obstructions.** The submitted plans illustrate balconies on the third and fourth floors that do not comply with the spacing and/or envelope requirements of Planning Code Sections 136(c)(2). Please revise these features accordingly so that they are considered code-complying obstructions into required areas and do not require any variances.
6. **Inclusionary Affordable Housing.** Inclusionary Affordable Housing is required for a project proposing ten or more dwelling units. The Project Sponsor must submit an ‘Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,’ to the Planning Department identifying the method of compliance, on-site, off-site, or affordable housing fee. Any on-site affordable dwelling-units proposed as part of the project must be designated as owner-occupied units, not rental units; unless a Costa Hawkins agreement is possible. Affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the project. The minimum Affordable Housing Percentages are 20% affordable housing fee, 12% on-site, or 20% off-site. Therefore, as proposed, the project would have a minimum requirement of (1) units if provided on-site, and (2) units if provided off-site.

For your information, if a project proposes rental units, it may be eligible for an On-site Alternative to the Affordable Housing Fee if it has demonstrated to the Planning Department that the affordable units are either: 1) ownership only or 2) not subject to the Costa Hawkins Rental Housing Act (a Costa Hawkins exception). Affordable units are not subject to the Costa Hawkins Rental Housing Act under the exception provided in Civil Code Sections 1954.50 through one of the following methods:

- direct financial construction from a public entity
- development bonus or other form of public assistance

A Costa Hawkins exception agreement is drafted by the City Attorney. You must state in your submittal how the project qualifies for a Costa Hawkins exception. The request should be addressed to the Director of Current Planning. If the project is deemed eligible, we may start working with the City Attorney on the agreement.

7. **Priority Processing.** Please be advised that in response to the Mayor’s Executive Directive 13-01 the Planning Department now facilitates priority processing for market-rate projects that include at least 20% on-site BMR units, (two units for this proposal) or 30% off-site BMR units. Priority processing for these housing projects will be the highest of the priority processed projects, excepting 100% affordable projects, and will have a target timeline of one week for application assignment and two weeks for application review. The project’s obligations with respect to affordable housing shall be memorialized as Conditions of Approval and shall be recorded as a Notice of Special Restrictions with the County Recorder’s Office in a form approved by the Zoning Administrator.

An application for Priority Application Processing must be filed prior to the submittal of the associated permit and/or entitlement applications. Please review Director’s Bulletin No. 2 (Priority Processing Bulletin) to obtain an application and review the procedures.

8. **Affordable Housing Bonus Program.** The City of San Francisco is in the process of developing a program that would offer a local mechanism to implement the State Density Bonus law (Government Code Section No. 65915) and is currently considering additional program options, including a component which offers density and development incentives for provision of middle income housing. This parcel is located within the proposed program study area, and the proposed project could receive density and other development incentives commensurate with provision of on-site affordable housing if consistent with the rules of the proposed program. Please refer to the
Affordable Housing Bonus Program website (www.sf-planning.org/AHBP) for the latest information on the program, draft legislation, proposed schedule, and related information.

9. **Stormwater.** If the project results in a ground surface disturbance of 5,000 sf or greater, it is subject to San Francisco’s stormwater management requirements as outlined in the Stormwater Management Ordinance and the corresponding SFPUC Stormwater Design Guidelines (Guidelines). Projects that trigger the stormwater management requirements must prepare a Stormwater Control Plan demonstrating project adherence to the performance measures outlined in the Guidelines including: (a) reduction in total volume and peak flow rate of stormwater for areas in combined sewer systems OR (b) stormwater treatment for areas in separate sewer systems. The SFPUC Wastewater Enterprise, Urban Watershed Management Program is responsible for review and approval of the Stormwater Control Plan. Without SFPUC approval of a Stormwater Control Plan, no site or building permits can be issued. The Guidelines also require a signed maintenance agreement to ensure proper care of the necessary stormwater controls. To view the Stormwater Management Ordinance, the Stormwater Design Guidelines, or download instructions for the Stormwater Control Plan, go to http://sfwater.org/sdg. Applicants may contact stormwaterreview@sfwater.org for assistance.

10. **Impact Fees.** This project will be subject to various impact fees. Please refer to the Planning Director’s Bulletin No. 1 for an overview of Development Impact Fees, and to the Department of Building Inspection’s Development Impact Fee webpage for more information about current rates.

**PRELIMINARY DESIGN COMMENTS:**

The following comments address preliminary design issues that may substantially affect the proposed project:

1. **Site Design, Open Space and Massing.** The Planning Department appreciates the at-grade location and size of the rear yard in contributing to the mid-block open space and acting as a transition between the 4-story development and predominant 2-story street face along 42nd Avenue. However, the Planning Department does not support the use of the rear yard for driveway access. The Planning Department instead suggests the rear yard be designed as active, usable and accessible open space.

2. **Street Frontage.** The Planning Department recommends the project consider ground level retail space at the corner of 42nd Avenue and Lawton Street. The Planning Department recommends locating a townhouse with a direct entry from the street along 42nd Avenue.

   Parking is not allowed within the first 25’ of building depth on any frontage. The Planning Department recommends providing a single lane width (10’ maximum) garage access off 42nd Ave.

   Residential entries should be raised a minimum of 3’ feet above grade and setback to provide and buffer from the street per the Draft Ground Floor Residential Design guidelines. Increase the setback to create a usable transition space between the units and the street.
Per Code, the ground floor residential units must conform to the Draft Ground Floor Residential Guidelines in order to be considered active uses. Refer to the draft Ground Floor Residential Design Guidelines for treatment of the building along the street for residential uses on the ground floor. The draft guidelines are located on the Department website under “Resource Center/Department Publications/Guidelines for Ground Floor Residential Design.”

3. **Public Realm Improvements.** Street trees are required. Project Sponsors shall plant and maintain street trees as set forth in Article 16, Sections 805(a) and (d) and 806(d) of the Public Works Code.

If street improvements are being considered, project sponsors should contact DPW as early as possible to understand the process and requirements for permitting street improvements. For more information on process, guidelines, and requirements for street improvements, refer to [www.sfbetterstreets.org](http://www.sfbetterstreets.org). Required streetscape and pedestrian improvements are not eligible for in-kind fee credit.

4. **Architecture.** The Planning Department recommends simplifying and clarifying the material choices and detail elements along the 42nd avenue elevation. The Department requests the use of high-quality materials and significant depth in the fenestration detailing.

**PRELIMINARY PROJECT ASSESSMENT EXPIRATION:**

This Preliminary Project Assessment is valid for a period of **18 months.** An Environmental Evaluation, Conditional Use Authorization, or Building Permit Application, as listed above, must be submitted no later than **April 10, 2017.** Otherwise, this determination is considered expired and a new Preliminary Project Assessment is required. Such applications and plans must be generally consistent with those found in this Preliminary Project Assessment.

Enclosure: Neighborhood Group Mailing List

cc: A&M Properties LLC, Property Owner
    Jeff Horn, Current Planning
    Justine Horner, Environmental Planning
    Patrick Race, Citywide Planning and Analysis
    David Winslow, Department Design Review
    Jonas Ionin, Planning Commission Secretary
    Delvin Washington, SW Team Leader
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