



SAN FRANCISCO PLANNING DEPARTMENT

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Planning Commission Motion No. 19940

HEARING DATE: JUNE 15, 2017

Case No.: 2009.0159EGPAMAPDNXCUA**VARK**
Project Address: 1540 Market Street (a.k.a. One Oak)
Zoning: C-3-G (Downtown General)
 120/400-R-2, 120-R-2 Height and Bulk Districts
 Van Ness & Market Downtown Residential Special Use District
Block/Lot: 0836, Lots 001, 002, 003, 004 and 005
Project Sponsor: Steve Kuklin, 415.551.7627
 Build, Inc.
 315 Linden Street
 steve@bldsf.com
 San Francisco, CA 94102
Staff Contact: Tina Chang, AICP, LEED AP
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Reviewed by: Mark Luellen, Northeast Team Manager
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ADOPTING FINDINGS, WITH THE RECOMMENDATION OF THE GENERAL MANAGER OF THE RECREATION AND PARK DEPARTMENT, IN CONSULTATION WITH THE RECREATION AND PARK COMMISSION, THAT NET NEW SHADOW ON PATRICIA'S GREEN, PAGE AND LAGUNA MINI-PARK, AND THE PROPOSED 11TH AND NATOMA PARK DESIGNATED FOR ACQUISITION BY THE RECREATION AND PARK COMMISSION BY THE PROPOSED PROJECT AT 1540 MARKET STREET WOULD NOT BE ADVERSE TO THE USE OF PATRICIA'S GREEN, PAGE AND LAGUNA MINI-PARK, OR THE PROPOSED 11TH AND NATOMA PARK AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

Under Planning Code Section ("Section") 295, a building permit application for a project exceeding a height of 40 feet cannot be approved if there is any shadow impact on a property under the jurisdiction of the Recreation and Park Department, unless the Planning Commission, upon recommendation from the General Manager of the Recreation and Park Department, in consultation with the Recreation and Park Commission, makes a determination that the shadow impact will not be significant or adverse.

On February 7, 1989, the Recreation and Park Commission and the Planning Commission adopted criteria establishing absolute cumulative limits for additional shadows on fourteen parks throughout San Francisco (Planning Commission Resolution No. 11595).

Patricia's Green is a 0.41 acre park located in the Western Addition neighborhood along the former Central Freeway parcel where Octavia Boulevard splits into two lanes flanking the park to the east and west. The park is bounded by Hayes Street to the north and Fell Street to the south. Patricia's Green is characterized by a picnic seating area, a circular plaza, grassy areas, and a children's play area. The neighborhood immediately surrounding Patricia's Green is characterized by residential buildings of two to five stories in height, as well as ground floor retail and restaurant uses.

On an annual basis, the Theoretically Available Annual Sunlight ("TAAS") on Patricia's Green (with no adjacent structures present) is approximately 66,622,661 square-foot-hours of sunlight. Existing structures in the area cast shadows on that total approximately 12,034,236 square-foot hours, or approximately 18.06 percent of the TAAS.

Page Laguna Mini Park is a 0.15 acre park located in the Western Addition Neighborhood of San Francisco on Assessor's Block 0852 / Lot 015. It is located mid-block with residences east and west and is bounded by Page Street to the north and Rose Street to the south. Page Laguna Mini Park is enclosed by fences—one along Rose Street and another which bisects the site from east to west. The mini park has two entrances on Page and Rose Streets, respectively which are connected by a meandering serpentine path creating a pedestrian connection between the two streets. The mini park features two fixed benches, a designated community gardening area and several trees ranging in size from small shrubbery to deciduous trees with larger canopies.

On an annual basis, the Theoretically Available Annual Sunlight ("TAAS") on Page and Laguna Mini Park (with no adjacent structures present) is approximately 24,402,522 square-foot-hours of sunlight. Existing structures in the area cast shadows on that total approximately 12,098,693 square-foot hours, or approximately 49.58 percent of the TAAS.

On an annual basis, the Theoretically Available Annual Sunlight ("TAAS") on the proposed 11th and Natoma Park (with no adjacent structures present) is approximately 72,829,287 square-foot-hours of sunlight. Existing structures in the area cast shadows on that total approximately 14,449,512 square-foot hours, or approximately 19.480 percent of the TAAS.

On February 26, 2009, Stephen Miller of Reuben & Junius, LLP filed an Environmental Evaluation application on behalf of CMR Capital, LLC, the previous property owner for a previous iteration of the project that occupied Assessor's Block 0836, Lots 002, 003, 004, and 005 but did not include the easternmost lot on the block (Lot 1) within the project site, and on August 27, 2012, John Kevlin of Reuben & Junius, LLP filed a revision to the Environmental Evaluation application on behalf of CMR Capital, LLC. The current project sponsor, One Oak Owner, LLC, submitted updated project information to the Planning Department to add Lot 001 and to address changes in the project under the same Planning Department Case Number (Case No. 2009.0159E) after acquiring the site in 2014.

On November 18, 2015 and December 9, 2016 Steve Kuklin of Build, Inc., on behalf of One Oak Owner, LLC ("Project Sponsor") filed applications requesting approval of a.) a Downtown Project Authorization pursuant to Section 309 of the San Francisco Planning Code; b.) a Zoning Map Amendment; c.) a General Plan Amendment to change 668 square feet of the eastern 15 feet of Assessor's Block 0836, Lot 001 from 120/400-R-2 to 120-R-2, and an equivalent 668 square feet, 4'-7.5" wide area located 28'-3" from the western edge of Assessor's Block 0836, Lot 005 from 120-R-2 to 120/ 400-R-2; d.) a Conditional Use Authorization for on-site parking in excess of the amount principally permitted pursuant to Planning Code Section 303; e.) Variances for Dwelling Unit Exposure and Maximum Parking/Loading Entrance Width pursuant to Planning Code Sections 140 and 145.1(c)(2); f.) an Exemption for Elevator Penthouse Height, pursuant to 260(b)(1)(B).; h.) an In-Kind Fee Waiver Agreement for public realm improvements pursuant to Planning Code Sections 421.3(d) and 424.3(c). These approvals are necessary to facilitate the construction of a mixed-use project located at 1540 Market Street, Assessor Block 0836, Lots 1, 2, 3, 4 and 5, ("Project"). The Project proposes to build an approximately 400-foot tall building containing approximately 304 dwelling units with a directed in-lieu contribution to facilitate the development of approximately 72 Below Market Rate dwellings units within 0.3 miles of the project site (the "Octavia BMR Project"), amounting to 24 percent of the 304-unit Project, subject to a letter and the conditions set forth therein from the Mayor's Office of Housing and Community Development, including the requirement for an independent environmental review of the Octavia BMR Project under CEQA.

On November 1, 2016, in accordance with the Entertainment Commission's guidelines for review of residential development proposals under Administrative Code Chapter 116, a hearing was held for the Project, and the Entertainment Commission made a motion to recommend the standard "Recommended Noise Attenuation Conditions for Chapter 116 Projects." The Entertainment Commission recommended that the Planning Department and/or Department of Building Inspection adopt these standard recommendations into the development permit(s) for this Project.

On January 5, 2017, the Commission held a duly advertised public hearing on the DEIR, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for commenting on the EIR ended on January 10, 2017. The Department prepared responses to comments on environmental issues received during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected clerical errors in the DEIR.

On February 23, 2017, the Planning Commission adopted Resolutions 19860 and 19861 to initiate legislation entitled, (1) "Ordinance amending the General Plan by revising the height designation for the One Oak Street Project, at the Van Ness / Oak Street / Market Street intersection, Assessor's Block 0836 Lots 001 and 005 on Map 3 of the Market and Octavia Area Plan and on Map 5 of the Downtown Area Plan; adopting findings under the California Environmental Quality Act; and making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1;" and (2) Ordinance amending the Planning Code to change the height and bulk district classification of Block 0836, portions of Lots 001 and 005 for the One Oak Project, at the Van Ness / Oak Street / Market Street Intersection, as follows: rezoning the eastern portion of the property, along Van Ness Avenue, located at Assessor's Block 0836, Lot 001 (1500 Market Street) from 120/400-R-2 to 120-R-2; and rezoning the central portion of the property, located at Assessor's Block 0836, Lot 005 (1540 Market Street) from 120-R-2 to 120/400-R-2; affirming the Planning Commission's determination under the California Environmental

Quality Act; and making findings, including findings of public necessity, convenience and welfare under Planning Code Section 302, and findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1," respectively.

On June 1, 2017, the Planning Department published a Responses to Comments document. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the public review process, any additional information that became available, and the Responses to Comments document all as required by law.

On June 15, 2017, the Commission reviewed and considered the FEIR and found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The FEIR was certified by the Commission on June 15, 2017 by adoption of its Motion No. 19938.

At the same Hearing and in conjunction with this motion, the Commission made and adopted findings of fact and decisions regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, and a statement of overriding considerations, based on substantial evidence in the whole record of this proceeding and pursuant to the California Environmental Quality Act, California Public Resources Code Section 21000 et seq. ("CEQA"), particularly Section 21081 and 21081.5, the Guidelines for Implementation of CEQA, 14 California Code of Regulations Section 15000 et seq. ("CEQA Guidelines"), Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31") by its Motion No. 19939. The Commission adopted these findings as required by CEQA, separate and apart from the Commission's certification of the Project's Final EIR, which the Commission certified prior to adopting these CEQA findings. The Commission hereby incorporates by reference the CEQA findings set forth in Motion No. 19939.

On June 15, 2017, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting regarding (1) the General Plan Amendment amending Map 3 of the Market and Octavia Area Plan and on Map 5 of the Downtown Area Plan; and (2) the ordinance amending the Zoning Map HT07 to rezone portions of Lots 001 and 005 on Assessor's Block 0836. At that meeting the Commission Adopted (1) Resolution No. 19941 recommending that the Board of Supervisors approve the requested General Plan Amendment; and (2) Resolution No. 19942 recommending that the Board of Supervisors approve the requested Planning Code Map Amendments.

On June 15, 2017, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting regarding the Downtown Project Authorization application, Conditional Use application, and Variance and Elevator Exemption application 2009.0159EGPAMAPDNXCUIAVARK. At the same hearing the Commission determined that the shadow cast by the Project would not have any adverse effect on Parks within the jurisdiction of the Recreation and Parks Department. The Commission heard and considered the testimony presented to it at the public hearing and further considered written materials and oral testimony presented on behalf of the applicant, Department staff and other interested parties, and the record as a whole.

On June 15, 2017, the Recreation and Park Commission conducted a duly noticed public hearing at a regularly scheduled meeting and, in consultation with their General Manager, recommended that the

Planning Commission find that the shadows cast by the Project on Patricia's Green, Page and Laguna Mini-Park, and the proposed park at 11th and Natoma Streets will not be adverse to the use of Patricia's Green, Page and Laguna Mini-Park, or the proposed park at 11th and Natoma Streets.

The Planning Department, Jonas P. Ionin, is the custodian of records; all pertinent documents are located in the File for Case No. 2009.0159EGPAMAPDNXCUIAVARK, at 1650 Mission Street, Fourth Floor, San Francisco, California.

The Planning Commission has reviewed and considered reports, studies, plans and other documents pertaining to the Project.

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

FINDINGS

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

1. The foregoing recitals are accurate, and also constitute findings of this Commission.
2. The Commission made and adopted environmental findings by its Motion No. 19939, which are incorporated by reference as though fully set forth herein, regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, and a statement of overriding considerations, based on substantial evidence in the whole record of this proceeding and pursuant to the California Environmental Quality Act, Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission adopted these findings as required by CEQA, separate and apart from the Commission's certification of the Project's Final EIR, which the Commission certified prior to adopting the CEQA findings.
3. The additional shadow cast by the Project, while numerically significant, would not be adverse, and is not expected to interfere with the use of Patricia's Green, for the following reasons:
 - a. The proposed project would reduce the annual available insolation by about 0.22 percent (a reduction of 148,200 square foot hours of sunlight). This results in a total shadow load of 12,182,435 square foot hours and a reduction of the available insolation by 18.28 percent.
 - b. Although the additional shadow cast by the proposed project has a numerically significant effect, the magnitude of the additional shadow amounts to a reasonable and extremely small loss of sunlight for a park in an area slated for increased building heights and residential density.
 - c. The net new shadow cast upon Patricia's Green from the Project would occur in the early mornings from February 17 through April 5, and again from September 8 through

October 25, when observed park usage is relatively sparse compared to later morning, midday peak and afternoon times. At these times, the southwest portion of the park would continue to be unshaded by existing and project shadow and would be available to those park users seeking sunlight.

- d. The net new shadow cast is relatively small in area and the average daily duration of the net new shadow is approximately 28 minutes.
4. The additional shadow cast by the Project, while numerically significant, would not be adverse, and is not expected to interfere with the use of the Page and Laguna Mini Park, for the following reasons:
- a. The proposed project would reduce the annual available insolation by about 0.04 percent (a reduction of 9,576 square foot hours of sunlight). This results in a total shadow load of 12,108,269 square foot hours and a reduction of the available insolation by 49.62 percent.
 - b. Although the additional shadow cast by the proposed project has a numerically significant effect, the magnitude of the additional shadow amounts to a reasonable and extremely small loss of sunlight for a park in an area slated for increased building heights and residential density.
 - c. The net new shadow cast upon Page and Laguna Mini Park from the Project would occur in the early mornings from May 19 through July 26, when observed park use would be considered low.
 - d. The net new shadow cast is relatively small in area and the average daily duration of the net new shadow is approximately 15 minutes.
5. The additional shadow cast by the Project would be numerically insignificant, and therefore would not be adverse, and is not expected to interfere with the use of the proposed 11th and Natoma Park, for the following reasons:
- a. The proposed project would reduce the annual available insolation by about 0.004 percent (a reduction of 2,838 square foot hours of sunlight). This results in a total shadow load of 14,452,350 square foot hours and a reduction of the available insolation by 19.844 percent.
 - b. The additional shadow cast by the proposed project has a numerically insignificant effect, and the magnitude of the additional shadow amounts to a reasonable and extremely small loss of sunlight for a park in an area slated for increased building heights and residential density.
 - c. The net new shadow cast upon the proposed 11th and Natoma Park from the Project would occur in the early evenings from June 9 through July 5.

- d. The net new shadow cast is relatively small in area and the average daily duration of the net new shadow is approximately 18 minutes.

6. **General Plan Compliance.** The Project is, on balance, consistent with the Objectives and Policies of the General Plan, for the reasons set forth in the findings in the Downtown Project Authorization, Motion No. 19943, which are incorporated by reference as though fully set forth herein.

7. **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 complies with said policies, for the reasons set forth in the Downtown Project Authorization, Motion No. 19943 which are incorporated by reference as though fully set forth herein.

8. 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.

9. A determination by the Planning Commission and the Recreation and Park Commission to allocate net new shadow to the Project does not constitute an approval of the Project.

DECISION

That based upon the Record, the submissions by the Project Sponsor, the staff of the Planning Department, the recommendation of the General Manager of the Recreation and Park Department, in consultation with the Recreation and Park Commission, and other interested parties, the oral testimony presented to the Planning Commission at the public hearing, and all other written materials submitted by all parties, the Planning Commission hereby DETERMINES, under Shadow Analysis Application No. 2009.0159EGPAMAPDNXCUIAVARK, that the net new shadow cast by the Project on Patricia's Green, Page and Laguna Mini Park, and the proposed park at 11th and Natoma Streets will not be adverse to the use of Patricia's Green, Page and Laguna Mini-Park, or the proposed park at 11th and Natoma Streets.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting on June 15, 2017.



Jonas P. Ionin
Commission Secretary

AYES: Commissioners Hillis, Johnson, Melgar, Moore, Richards

NAYES: Commissioner Koppel

ABSENT: Commissioner Fong

ADOPTED: June 15, 2017