

File No. 110855

Committee Item No. 4

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date July 25, 2011

Board of Supervisors Meeting Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>DPW SUR Map No. 2011</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Conceptual Renovation Plan</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Environmental Review Determination, dtd 4/29/11</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>General Plan Referral Letter, dtd 3/11/11</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Easement Agreement</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>DPW Order</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
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Completed by: Alisa Somera Date July 22, 2011

Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

1 [Street Vacation - Resolution of Intention - Portion of Cayuga Avenue]
2

3 **Resolution declaring the intention of the Board of Supervisors to vacate an**
4 **approximately 8,490 square foot portion of public right-of-way located on Cayuga**
5 **Avenue, west of Naglee Avenue; and setting the hearing date for all persons interested**
6 **in the proposed vacation of said public right-of-way.**
7

8 WHEREAS, This vacation proceeding for portion of the public right-of-way located on
9 Cayuga Avenue, west of Naglee Avenue (the "Vacation Area"), is conducted under the
10 general vacation procedures of the Public Streets, Highways and Service Easements
11 Vacation Law (California Streets and Highways Code Sections 8300 et seq.); and

12 WHEREAS, Section 787(a) of the San Francisco Public Works Code provides that the
13 street vacation procedures for the City and County of San Francisco (the "City") shall be in
14 accordance with the applicable provisions of the California Streets and Highways Code and
15 such rules and conditions as are adopted by the Board of Supervisors; and

16 WHEREAS, The location and extent of the Vacation Area is more particularly described
17 on the Department of Public Works' SUR Map No. 2011, dated March 17, 2011, a copy of
18 which is on file with the Clerk of the Board of Supervisors in File No. 110855 and
19 incorporated herein by reference; and

20 WHEREAS, The Vacation Area is at Cayuga Park's southeastern border. Cayuga Park
21 is a 126,990-square foot park generally bounded by Naglee Avenue to the northeast, Cayuga
22 Avenue and Alemany Boulevard to the southeast, Whipple Avenue to the southwest, and I-
23 280 to the northwest in the Outer Mission Neighborhood; and

24 WHEREAS, The Recreation and Park Department crafted the Cayuga Park Renovation
25 Plan. The Renovation Plan involves incorporation of the 8,490-square foot Vacation Area into

1 the Park, transfer of the Vacation Area and "paper" streets within the Park from the
2 Department of Public Works to Recreation and Park Department jurisdiction, demolition of the
3 existing clubhouse and construction of a new expanded clubhouse, new irrigation and
4 stormwater drainage systems to serve the field sports play area and other park facilities, tree
5 planting, and reorganizing park elements to switch locations of the existing children's play
6 area and basketball court. Copies of the Renovation Plan are on file with the Clerk of the
7 Board of Supervisors in File No. 110855 and are incorporated herein by reference;
8 and

9 WHEREAS, The vacation of the Vacation Area is necessary to implement the
10 Renovation Plan that will incorporate the dead-end section of Cayuga Avenue into the Park's
11 open space to provide additional community use of the Park; and

12 WHEREAS, On April 29, 2011, the Planning Department determined that the Cayuga
13 Park Renovation was exempt under Categorical Exemption, Class 1, 3, and 4 in conformance
14 with the State CEQA Guidelines Sections 15301, 15303, and 15304. Said determination is on
15 file with the Clerk of the Board of Supervisors in File No. 110855 and is incorporated
16 herein by reference; and

17 WHEREAS, On March 11, 2011, the City Planning Department found that the street
18 vacation and other actions contemplated herein were consistent with the General Plan and
19 the eight priority policies of Planning Code Section 101.1. A copy of this letter is on file with
20 the Clerk of the Board of Supervisors in File No. 110855 and is incorporated by
21 reference as though fully set forth herein; and

22 WHEREAS, In DPW Order No. _____, dated _____, 2011, the Director of the
23 Department of Public Works ("DPW Director") determined: (a) the Vacation Area is
24 unnecessary for the City's present or prospective public street, sidewalk, and service
25 easement purposes; (b) jurisdictional transfer of the Vacation Area and paper street portions

1 of Cayuga and Mandan Avenues from the Department of Public Works to the Recreation and
2 Park Department at no cost, subject to use conditions, is a policy matter for the Board; (c)
3 there are no physical public or private utilities affected by the vacation of the Vacation Area
4 except as stated below; (d) the Recreation and Park Department is working with the San
5 Francisco Public Utilities Commission ("PUC") to develop a Memorandum of Agreement
6 concerning PUC access to and maintenance of sewer utilities in Cayuga Avenue; and (e) the
7 vacation is subject to the creation of private easements for sewer lateral connections to 5
8 properties backing on to the Vacation Area as described further herein. A copy of the DPW
9 Order is on file with the Clerk of the Board of Supervisors in File No. 110855 and is
10 incorporated herein by reference; and

11 WHEREAS, As part of this vacation action, the DPW Director recognizes that private
12 sewer laterals exist within the Vacation Area and the PUC has sewer utilities in the Vacation
13 Area and in the paper street portion of Cayuga Avenue currently within the boundaries of
14 Cayuga Park. The DPW Director recommends that the street vacation should be subject to:
15 (a) approval of private easements to the five properties bordering on the Vacation Area for
16 access to and maintenance of the sewer laterals and (b) establishment of a Memorandum of
17 Agreement between the PUC and Recreation and Park Department for access to and
18 maintenance of PUC utilities in the former and existing portions of Cayuga Avenue that will be
19 within Cayuga Park. A copy of a draft easement for the private sewer laterals is on file with
20 the Clerk of the Board of Supervisors in File No. 110855 and is incorporated herein
21 by reference; and

22 WHEREAS, The DPW Director recommends that the public interest, convenience, and
23 necessity require that, except as specifically provided above, no other easements or other
24 rights should be reserved for any public or private utilities or facilities that are in place in such
25

1 Vacation Area and that any rights based upon any such public or private utilities or facilities
2 should be extinguished; and

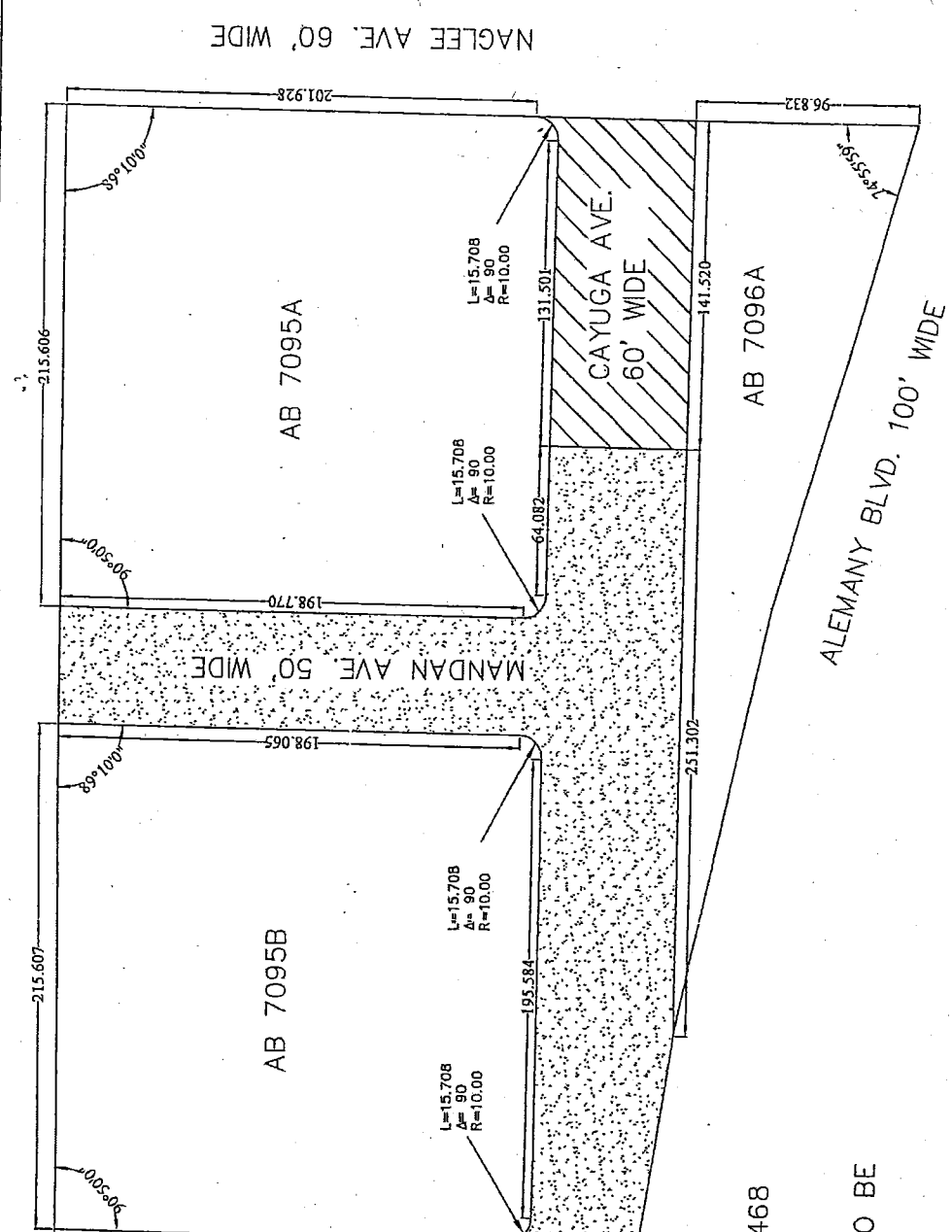
3 WHEREAS, The DPW Director also recommends that the vacation of the Vacation
4 Area should be conditioned upon the following restriction: the Vacation Area can be used only
5 to fulfill the mandate of the City's 2008 "Clean and Safe" Park Bond for Cayuga Park; and


6 WHEREAS, Pursuant to the California Streets and Highways Code Section 892, the
7 DPW Director also finds that the Vacation Area is currently not necessary for non-motorized
8 transportation, though the Vacation Area, once incorporated into Cayuga Park, would be
9 available for non-motorized transportation; now, therefore, be it

10 RESOLVED, That under California Streets and Highway Code Sections 8320 et seq.,
11 the Board of Supervisors hereby declares that it intends to order the vacation of the Vacation
12 Area, as shown on SUR Map No. 2011, and adopt the recommendations of the DPW Director
13 and the findings of the Planning Department; and, be it

14 FURTHER RESOLVED, That notice is hereby given that on the ____ day of
15 _____, 2011, beginning at approximately ____ P.M. in the Legislative Chambers of
16 the Board of Supervisors, all persons interested in or objecting to the proposed vacation will
17 be heard; and, be it

18 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board
19 to transmit to the Department of Public Works a certified copy of this Resolution, and the
20 Board of Supervisors urges the Director of Public Works to publish and post this Resolution
21 promptly in the manner required by law and to give notice of the hearing of such contemplated
22 action in the manner required by law.



REFERENCES:	APPROVED:		DATE	BY	DATE	CITY AND COUNTY OF SAN FRANCISCO		
-RESOLUTION NO. 5468	 BRUCE R. STORRS CITY & COUNTY SURVEYOR		3/12/11	DRW	11/08/10	DEPARTMENT OF PUBLIC WORKS		
-Dedication Map 202			APP	BS	CK	FILE	SCALE:	CHANGE
-Map Book O page 54							1:50	1 OF 1
							SUR 2011	
PROPOSED STREET VACATION OF A PORTION OF CAYUGA AVE. WEST OF NAGLEE AVE.								

AREA VACATED BY
RESOLUTION NO. 5468

PROPOSED AREA TO BE
VACATED

NAGLEE AVE. 60' WIDE

WHIPPLE AVE. 60' WIDE

MANDAN AVE. 50' WIDE

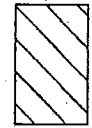
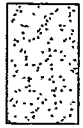
CAYUGA AVE.
60' WIDE

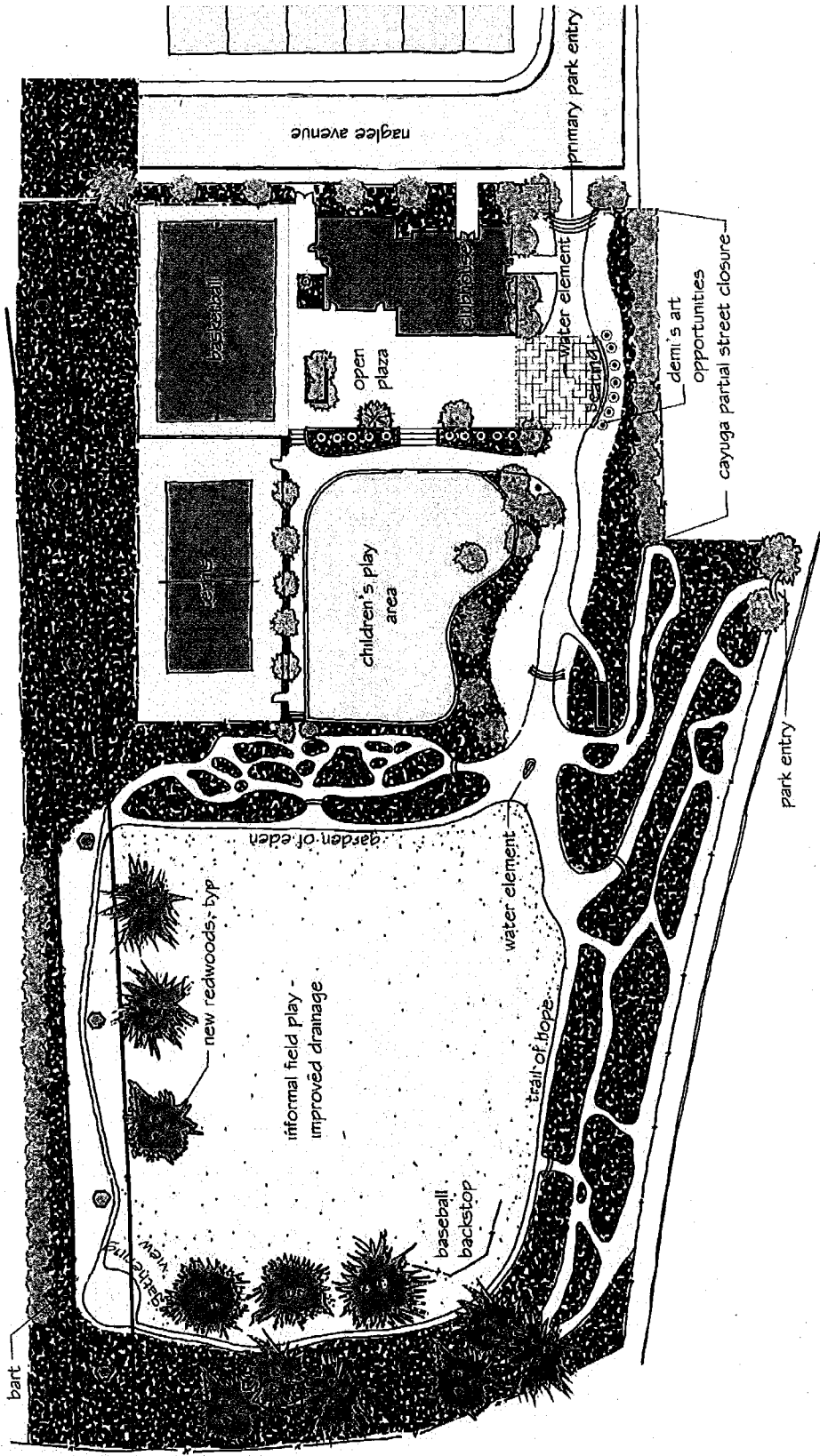
ALEMANY BLVD. 100' WIDE

AB 7095A

AB 7095B

AB 7096A





Cayuga Playground and Clubhouse – Conceptual Renovation Plan
 September 2009



SAN FRANCISCO PLANNING DEPARTMENT

Certificate of Determination EXEMPTION FROM ENVIRONMENTAL REVIEW

Case No.: 2010.1016E
Project Title: Cayuga Park Renovation
Zoning: P (Public) Use District
OS (Open Space) Height and Bulk District
Block/Lot: 7095A/011, 7095B/002, 7096A/008
Project Site Area: 135,480 square feet
Project Sponsor: Marvin Yee, S.F. Recreation and Park Department – 415 581-2541
Staff Contact: Jeremy D. Battis – 415 575-9022
Jeremy.Battis@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION:


The proposed project, located at Cayuga Park, would vacate and acquire a small dead end public street (Cayuga Street) approximately 167 feet in length, at the park's southeastern border. The acquisition would enlarge the existing 126,990-square foot (2.9 acre) park by 8,490 square feet (sq ft). The proposed road acquisition would necessitate that at least a portion of the new park area be rezoned from RH-1 (Residential House, One-family) to P (Public Use). In addition, a portion of the existing park—Mandan Street at about 10,465 sq ft of area and Cayuga Street at about 20,696 sq ft of area—consists of "paper streets" under the jurisdiction of the San Francisco Department of Public Works (DPW). The proposed project would include a jurisdictional transfer of these three street areas from DPW to the San Francisco Recreation and Park Department.

EXEMPT STATUS:

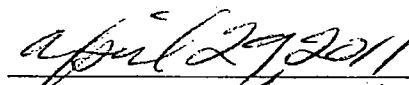
Categorical Exemption, Class 1, 3, & 4 [State CEQA Guidelines Sections 15301, 15303, & 15304]

DETERMINATION:

I do hereby certify that the above determination has been made pursuant to State and Local requirements.


BILL WYCKO

Environmental Review Officer


Date

cc: Marvin Yee, Recreation and Park Department
K. Mauney-Brodek, Recreation and Park Department
John Avalos, Supervisor District 11

Bulletin Board / M.D.F
B. Bollinger, Planning Department
M. Webster, Planning Department

PROJECT DESCRIPTION: (CONTINUED)

The proposed project also involves the demolition of an existing one-story 3,100-sq ft park clubhouse building constructed in 1951 and the construction of a new one-story 3,650-sq ft clubhouse building. In addition the proposed project includes new irrigation within an existing field sports play area, a new manmade "daylighted" irrigation and stormwater drainage water element, landscaping and tree planting and removal, and the swapping of site locations between an existing children's play area and an existing basketball court. The subject property is a panhandle-shaped parcel within the city block bounded by Naglee Avenue to the northeast, Cayuga Avenue and Alemany Boulevard to the southeast, Whipple Avenue to the southwest, and I-280 to the northwest in the Outer Mission Neighborhood.

REMARKS:

In evaluating whether the proposed project would be exempt from environmental review under the California Environmental Quality Act (CEQA), the Planning Department determined that the existing building on the site, the "Cayuga Clubhouse," is not a historic resource as defined by CEQA (see attached Historic Resource Evaluation Response (HRER) memorandum).¹ In making the determination, the Planning Department cited a supplemental Historic Resource Evaluation (HRE)², an architectural and historic report furnished by the project applicant. The HRE found that the existing building has "lost integrity of design through an addition made circa 1977 which dramatically altered the building's massing and roofline [and]...also removed the rear glass window wall that was a key facet of the building's original Modernist design."

The neighborhood adjacent to the project does not appear to constitute a historic district. However, the Cayuga Clubhouse, because it was constructed as part of the 1947 Recreation Bond Measure, would be considered part of an associated "discontiguous" potential historic district that is awaiting a historic survey. Nevertheless, the building's lack of historic integrity appears to render the Clubhouse as a non-contributing building to the potential district.³ Both the HRE and HRER concluded that the existing structure does not appear to retain sufficient historic integrity for listing in the California Register of Historical Resources and, as such, cannot be considered a historic resource.

Because the existing building is not a historic resource, its demolition would not result in a significant impact to a historic resource and may therefore be found to be exempt from environmental review if other criteria are satisfied. As described below, the project meets the criteria for exemption from environmental review.

Biological Impacts: The San Francisco Board of Supervisors adopted legislation that amended the City's Urban Forestry Ordinance, Public Works Code Sections 801 et. seq., to require a permit from the DPW to

¹ *Historic Resource Evaluation Response (HRER) memorandum for Cayuga Park, San Francisco, CA by Rich Sucre, Preservation Technical Specialist, January 18, 2011 (attached).*

² *Historic Resource Evaluation Final (HRE) for Cayuga Park, San Francisco, CA by Page & Turnbull, October 25, 2010. This document is available for public review by appointment at 1650 Mission Street, Suite 400, San Francisco, CA as part of Case File No. 2010.1016E.*

³ *Supra note 1.*

remove any protected trees.⁴ Protected trees include landmark trees, significant trees, or street trees located on private or public property anywhere within the territorial limits of the City and County of San Francisco. Article 16 of the San Francisco Public Works Code, the Urban Forestry Ordinance, provides for the protection of "landmark" trees, "significant" trees, and street trees. Landmark trees are designated by the Board of Supervisors upon the recommendation of the Urban Forestry Council, which determines whether a nominated tree meets the qualification for landmark designations by using established criteria (Section 810). Significant trees are those trees within the jurisdiction of the Department of Public Works, or trees on private property within 10 feet of the public right-of-way, that meet certain size criteria. To be considered significant, a tree must have a diameter at breast height of more than 12 inches, a height of more than 20 feet, or a canopy of more than 15 feet (Section 810(A)(a)). The removal of protected trees by abutting property owners requires a permit under Article 16 of the San Francisco Public Works Code. As described below in further detail, the proposed project would result in removal of 44 trees on the project site. The tree assessment prepared for the project site identified twelve trees considered significant, three of which are proposed for removal.⁵ If the Department of Public Works grants a permit under Article 16 of the San Francisco Public Works Code, it shall require that replacement trees be planted (at a one-to-one ratio) or that an in-lieu fee be paid (Section 806(b)). Therefore, with Section 806(b) compliance, the project would not conflict with any local policies or ordinances protecting trees.

HortScience, Inc. conducted a tree assessment for the proposed project which included the following: a survey of 128 trees over six inches within the project area; description of the trees; an assessment of the suitability for preservation of each tree; a tree risk assessment; evaluation of the project impacts and proposed actions; and guidelines for tree preservation during the design, construction, and maintenance phases of development.⁶ All 128 trees surveyed were planted as landscaping and shade canopy; none are native to the project site. The results of this survey are summarized below.

The tree survey evaluated 128 trees, which represented 25 different tree species. The most frequently occurring tree species were Monterey cypress (29 trees), purple leaf plum (20 trees), cherry (14 trees), and cordyline (10 trees). The tree health assessment found that the health of the 128 trees ranged from "poor" (10 trees) to "excellent" (10 trees). Trees rated as in "fair" condition numbered 69, and 39 trees were considered to be in "good" condition.

To gauge each tree's suitability for preservation, the tree survey rated each of the 128 trees on existing health, structural integrity, species response, tree age and longevity, and species invasiveness. Additionally, a tree risk assessment was conducted to assess a tree's potential for one of its parts to fail, and pose a hazard to safety to property.

Based on findings of the tree risk assessment, tree survey, and the location of the proposed project, the consulting arborist recommends that 84 trees be preserved and 44 trees be removed. Eleven Monterey cypress trees identified for removal are outside the project construction area, but are in poor health. Of

⁴ San Francisco Planning Department, Director's Bulletin No. 2006-01, May 5, 2006, Planning Department Implementation of Tree Protection Legislation, page 2, http://www.sfgov.org/site/uploadedfiles/planning/projects_reports/db2006_01treedisclosuredirector.pdf.

⁵ Tree Assessment, Cayuga Playground, San Francisco, CA, Prepared by James R. Clark, Ph. D., HortScience, Inc. for the S.F. Recreation and Park Department, City of San Francisco, February 12, 2011. This document is available for review at the Planning Department, 1650 Mission Street, Suite 400, as part of Case File No. 2010.1016E.

⁶ *Ibid.*

the 33 additional trees that would be permanently removed as a direct result of project construction, sixteen have poor suitability or defects that render them unsuitable for preservation; another 17 are healthy trees located within the footprint of proposed new facilities. In addition to the 11 Monterey cypress, tree species to be permanently removed would consist predominantly of cherry (7 trees), cordyline (5 trees), and red-flowering gum (5 trees).

The tree assessment also includes tree preservation guidelines that would be followed during construction activities. The tree preservation guidelines include establishment of a tree protection zone, the installation of protective chain link or baled hay fencing around trees to be preserved, and appointment of an on-site arborist advisor during the construction phase, including grading, utilities, drainage, and landscape plans.⁶

Bird nesting, protected under the federal Migratory Bird Treaty Act (MBTA), may occur in the project area. Migratory birds include geese, ducks, shorebirds, raptors, songbirds, and seabirds. As described above, a number of non-native trees would be removed from the project site. Therefore, to reduce any potential for adverse effects on nesting birds in the course of non-native tree removal, construction would occur outside of bird nesting season (January 15 to August 15). Bird nesting season is generally recognized to be from March 15 to August 15 in most areas of California, but can begin as early as January 15th in the San Francisco Bay Area. In the event that construction during bird nesting season cannot be fully avoided, preconstruction nesting surveys should be conducted prior to work in order to comply with the MBTA. The MBTA makes it unlawful to "take" (kill, harm, harass, shoot, etc.) any migratory bird listed in 50CFR 10, including a bird's nest, eggs, or young. Pursuant to the MBTA, the project sponsor will conduct preconstruction bird nesting surveys within seven days of the start of construction (i.e., active ground disturbance). If active nests are located during the preconstruction bird nesting survey, the project sponsor is required to contact the California Department of Fish and Game for guidance on obtaining and complying with a Section 1081 Agreement, which may include setting up and maintaining a line-of-site buffer area around the active nest and prohibiting construction activities within the buffer; modifying construction activities; and/or removing or relocating active nests.

As described above, the proposed project would not conflict with any local policies or ordinances protecting biological resources; affect any rare, threatened, or endangered species; diminish habitat; or conflict with any policies or ordinances protecting trees. Therefore, the proposed project would not result in any impact to biological resources.

CONCLUSION:

CEQA State Guidelines Section 15301, or Class 1, provides an exemption for existing facilities, which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alterations of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agencies determination. Additionally, CEQA State Guidelines Section 15301(l) provides an exemption for the demolition and removal of individual small structures. The proposed project would demolish the existing Cayuga Clubhouse, a 3,100-sq ft building. Therefore, the proposed project meets the criteria for exemption under Class 1.

CEQA State Guidelines Section 15303, or Class 3, provides an exemption from environmental review for the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Class 3 also provides an exemption for accessory structures including garages, carports, patios, swimming pools, and fences. The proposed project would entail construction of a new 3,650-sq ft clubhouse building as well as the replacement construction of a new children's play area and basketball court. Therefore, the proposed project meets the criteria for exemption under Class 3.

CEQA State Guidelines Section 15304(b), or Class 4(b), provides an exemption for new gardening, including the replacement of existing conventional landscaping with water-efficient or fire-resistant landscaping. Class 4 would exempt landscaping features such as vegetation, walkways, and irrigation systems. The project would require minor alterations of the land and vegetation including removal of 44 trees, planting of approximately 64 new trees -- including six redwood trees, new pathways and landscaping, and installation of a new drainage and associated daylighted water features. Therefore, the proposed project meets the criteria for exemption under Class 4.

CEQA State Guidelines Section 15300.2 states that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity would have a significant effect on the environment due to unusual circumstances. The proposed project would include a change of zoning for at least a portion of the 8,490 sq ft of area proposed for acquisition into the park, currently in use as a public street. The change of zoning action, which would reassign the zoning designation of at least a portion of the 8,490 sq ft of area proposed for acquisition, presently known as Cayuga Avenue (and if applicable, those paper streets consisting of Mandan and Cayuga Street), from RH-1 (Residential House, One-family) to P (Public Use), and the proposed jurisdictional transfer of described streets, would not result in a direct or reasonably foreseeable indirect physical change in the environment. As described above, the proposed project would not have a significant effect on a historic or biological resource. There are no unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant environmental effect. The project would be exempt under each of the above-cited classifications. For all of the above reasons, the proposed project is appropriately exempt from environmental review



SAN FRANCISCO PLANNING DEPARTMENT

General Plan Referral

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date: March 11, 2011

Case No. Case No. 2010.1016R
Cayuga Park Renovation and Expansion
Vacation and transfer a portion of Cayuga Avenue to
Enlarge the Park

Block/Lot No.: 7095A/011; 7095B/002; 7096A/008; and fronting R-O-W are: 7095A/011
(301 Naglee); 7096A/010 (2726 Alemany); 7096A/011 (2720 Alemany);
7096A/011A (2716 Alemany); 7096A/011B (2710 Alemany); 7096A/011C
(2706 Alemany).

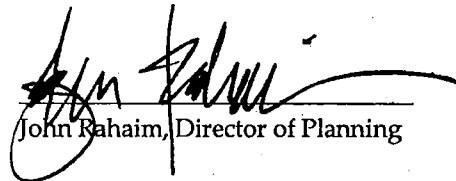
Project Sponsor: Marvin Yee, Project Manager
San Francisco Recreation and Park Department,
Capital Improvements Division
30 Van Ness Avenue, 5th Floor
San Francisco, CA 94102

Applicant: Same as Above

Staff Contact: Michael Webster – (415) 575-9067
michael.webster@sfgov.org

Recommendation: Finding the project, on balance, in conformity with the General
Plan, as described further in this Case Report.

*Recommended
By:*


John Rahaim, Director of Planning

PROJECT DESCRIPTION

The Project includes several major elements and fulfills the mandate of the City's 2008 "Clean and Safe" Park Bond for Cayuga Park. The project includes

(1) the reconfiguration of the park's outdoor open space to improve the site layout, renovation of the play area, basketball and volleyball courts, irrigation, and park landscaping;

(2) vacation of the dead-end segment of Cayuga Avenue west of Naglee Avenue and transfer of the property from DPW to the Recreation and Park Department to incorporate the underutilized roadway into the park's open space. Incorporating the underutilized section of Cayuga Avenue street into the park will add 8,490 square feet to the park, supporting additional community use of the park

(3) demolition of the existing 3,100 square foot clubhouse and construction of a new 3,650 square foot clubhouse, including upgrading of all systems, seismic upgrades, and improved ADA Title 24 accessibility.

SITE DESCRIPTION AND PRESENT USE

Cayuga Park is located in the Southwest quadrant of the City in the Outer Mission neighborhood. The site is bordered by Naglee Avenue to the northeast, Whipple Avenue to the southwest, Alemany Boulevard and Cayuga Avenue to the southeast, and the BART right-of-way to the northwest. The site is zoned "P" (Public). The project includes vacation of the Cayuga Avenue street segment west of Naglee Avenue and its incorporation into the park (the street ends at the park). The park contains a 3,100 square foot clubhouse structure and approximately 121,000 square feet of outdoor recreation space (approximately 2.8 acres).

The outdoor recreation area includes a basketball court, a tennis court, a grassy lawn ringed with trees and a hiking trail. The clubhouse structure in the park is a Modern style building by master architect William Gladstone Merchant, and is an example of a post World War II expansion of San Francisco's recreation facilities funded by Proposition 6, a bond measure that was approved by the voters in 1947. The building has undergone several alterations since. The building "appears [historically] significant under California Register Criterion 1 (Event)," though due to the several alterations, it "is not considered a historic resource under CEQA¹."

ENVIRONMENTAL REVIEW

The Major Environmental Analysis Section of the Planning Department has determined that the project is Categorically Exempt from environmental review under Class 1, 3, and 4 (State CEQA Guidelines Sections 15301, 15303, and 15304).

GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION

The Project is consistent with the Eight Priority Policies of Planning Code Section 101.1 as described in the body of this letter and is, on balance, **in conformity** with the following Objectives and Policies of the General Plan:

¹ Page & Turnbull, Inc.; Final Historic Resource Evaluation for the Cayuga Clubhouse; 2010

RECREATION AND OPEN SPACE ELEMENT

Policy 2.2

Preserve existing open space.

Proposals for additions to existing recreation and cultural buildings in parks and playgrounds should be evaluated by the same process as that outlined below for supporting facilities. Additions to cultural and recreation facilities should be limited to the existing footprint and to that which can be accommodated on the site without creating a negative impact on the surrounding area by reason of excessive height and bulk. A goal of planning should be to limit the size of any necessary additions. Additions should be limited primarily to publicly accessible recreational and cultural uses, or facilities which directly support them. Alternative locations for non publicly accessible functions should be carefully explored. When additions are planned, careful planning should limit the size of the required enlargement.

The proposed project preserves existing open space by minimally expanding the current Cayuga Park clubhouse by its replacement and adding the Cayuga Avenue right-of-way to the existing open space in the park. The project, will result in enlarging the park, by adding approximately 8,900 square feet of underutilized public right-of-way.

OBJECTIVE 2

DEVELOP AND MAINTAIN A DIVERSIFIED AND BALANCED CITYWIDE SYSTEM OF HIGH QUALITY PUBLIC OPEN SPACE.

The proposed project replaces Cayuga Park's existing facilities (clubhouse, playground, basketball and tennis courts) with newer facilities ensuring a level of open space that is of high quality.

Policy 2.4

Gradually eliminate non-recreational uses in parks and playground and reduce automobile traffic in and around public open spaces.

The addition of the Cayuga Avenue right-of-way to Cayuga Park will reduce automobile traffic in and around this park. The project will convert a segment of Cayuga Avenue into public open space and incorporate it into Cayuga Park.

Policy 4.1

Make better use of existing facilities.

All public open space and recreation facilities should be adequately maintained and staffed so that they can meet standards which ensure maximum use. Such standards should specify optimal levels of staff, safety, maintenance, coordination and information. Other relevant factors and the exact levels of adequacy for each standard should be determined by the Recreation and Park Department.

Renovation of the park and replacement of the Cayuga Park clubhouse with a seismically sound and handicapped accessible clubhouse will support additional public use of the park and recreation facility.

OBJECTIVE 4

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

Policy 4.2

Maximize joint use of other properties and facilities.

The incorporation of the Cayuga Avenue right-of-way into Cayuga Park maximizes the use of this street stub. The right-of-way will be incorporated into the park by creating a new entrance into the park and creating new landscaping and hardscaping to manage the parks hydrology in a sustainable and aesthetically pleasing manner.

Policy 4.3

Renovate and renew the City's parks and recreation facilities.

The purpose of the proposed project is to renovate and renew the facilities in Cayuga Park. The project implements this policy.

Policy 4.4

Acquire and develop new public open space in existing residential neighborhoods, giving priority to areas which are most deficient in open space.

The vacation and jurisdictional transfer of the Cayuga Avenue stub right-of-way to the Recreation and Park Department will allow the Department to enlarge Cayuga Park, and accommodate increased use by the neighborhood.

URBAN DESIGN ELEMENT

Policy 2.8

Maintain a strong presumption against the giving up of street areas for private ownership or use, or for construction of public buildings.

The Project includes vacation and jurisdictional transfer of the Cayuga Avenue stub from the Department of Public Works to the Recreation and Parks Department. Once vacated, the street will be retained in public ownership and be incorporated into Cayuga Park. No private or public buildings will be constructed in the street space proposed to be vacated.

Policy 2.9

Review proposals for the giving up of street areas in terms of all the public values that streets afford.

3. Necessary for a significant public or semi-public use, or public assembly use, where the nature of the use and the character of the development proposed present strong justifications for occupying the street area rather than some other site;

The project includes vacation of a portion of Cayuga Avenue, transferring the street ROW to the Recreation and Park Department and incorporating it into Cayuga Park. This segment of the street is not required for vehicular access and the privately owned residential lots fronting the street have vehicular and pedestrian access on Alemany Street. Vacation of the street segment will result in enlarging the park. The street is primarily used for on-street parking.

TRANSPORTATION ELEMENT

Policy 18.5

Mitigate and reduce the impacts of automobile traffic in and around parks and along shoreline recreation areas.

The jurisdictional transfer and street vacation of the Cayuga Avenue stub will reduce vehicular traffic along the park perimeter of the park at this location, while capturing this land for park uses.

Policy 24.5

Where consistent with transportation needs, transform streets and alleys into neighborhood-serving open spaces or "living streets", especially in neighborhoods deficient in open space.

San Francisco should make improvements to streets and alleys and widen sidewalks to enhance their role in the City's open space network. In many neighborhoods currently underserved by open space there is little opportunity to create significant new parks due to a lack of available land. In high-density areas the streets afford the greatest opportunity for new public parks and plazas. Public open space gives a neighborhood its identity, a visual focus, and a center for activity. Residents and visitors would have an opportunity to experience some of the benefits of open space if streets, alleys and sidewalks were modified. Sidewalks can be widened and landscaped to accommodate open space needs and establish or strengthen neighborhood identity.

The jurisdictional transfer and street vacation of the Cayuga Avenue stub will transform this street segment into a neighborhood-serving open space, consistent with these policies.

COMMUNITY SAFETY ELEMENT

Policy 2.7

Abate structural and non-structural hazards in City-owned structures.

Both technical and financial resources are needed to repair and retrofit City-owned structures. The City shall utilize its capabilities to assess hazards and to create and implement bond and other funding opportunity and to carry out retrofit projects. A number of City buildings have already been structurally upgraded utilizing bond financing.

The proposed project would abate structural hazards in a City-owned structure through the utilization of public bonds.

RECOMMENDATION: Finding the Project, on balance, in conformity with the general plan

EIGHT PRIORITY POLICIES FINDINGS

The proposed project is found to be consistent with the eight priority policies of Planning Code Section 101.1 in that:

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

The proposed project will not affect existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses.

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

The proposed project will not affect housing, and may enhance neighborhood character through improvements to community facilities.

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

The proposed project would have no adverse effect on the City's supply of affordable housing.

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

The proposed project would not increase demand in such a way as to result in commuter traffic impeding MUNI's transit service, overburdening the streets or significantly altering current neighborhood parking.

5. 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 residential employment and ownership in these sectors be enhanced.

The proposed project would not affect the existing economic base in this area.

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

The proposed project would positively enhance the City's preparedness to protect against injury and loss of life in an earthquake because of project improvements and retrofitting.

7. That landmarks and historic buildings be preserved.

Because of the clubhouse's extensive additions and removal of original features, the building is not considered as having historic integrity, therefore no landmarks or historic buildings would be affected.

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

The proposed project would renovate and enlarge an existing park. It would also replace an existing Recreational Clubhouse with a new structure that would meet all seismic and building codes. The slightly enlarged building footprint would not decrease access to sunlight or compromise important recreational facilities.

RECOMMENDATION:

Finding the Project, on balance, in conformity with the General Plan.

I:\Citywide\General Plan\General Plan Referrals\2010\2010.1016R_Cayuga_Park_Renovation_Expansion_Final.doc

Free Recording Requested Pursuant to
Government Code Section 27383

Recording requested by and
when recorded mail to:

Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Director of Property

(Space above this line reserved for Recorder's use only)

EASEMENT AGREEMENT

(Portion of Assessor's Parcel No. Lot _____, Block _____)

This Easement Agreement (this "**Agreement**"), by and between the City and County of San Francisco, a municipal corporation ("**City**"), and _____ ("**Owner**"), is executed as of _____, 20__ (the "**Effective Date**").

RECITALS

A. City owns that certain real property described in the attached Exhibit A (the "**City Property**") and Owner owns the adjacent real property described in the attached Exhibit B (the "**Owner Property**").

B. Owner has a private sewer connection (the "**Sewer Connection**") to a public sewer line located in the City Property (the "**Public Sewer**"), and Owner wishes to obtain a private sewer connection easement (the "**Easement**") over the portion of the City Property described in the attached Exhibit C (the "**Easement Area**").

C. City agrees to grant such easement on the terms and conditions of this Agreement.

AGREEMENT

NOW, THEREFORE, Owner and City agree as follows:

1. Easement Uses. City shall have the right to use the Easement Area to access, use, maintain, service, operate, repair and replace the Sewer Connection and to exercise its rights and obligations under this Agreement (collectively, the "**Permitted Uses**") in compliance with the following conditions:

(a) Prior to commencing any maintenance, service, repair, replacement or any construction activities in the Easement Area, Owner shall obtain the permits described in Section _____ and provide at least _____ business days' prior written notice to City, except in the event of any immediate danger to health or property, in which case such party shall verbally notify the other party as soon as reasonably possible. Owner shall obtain City's prior written consent to restrict public access to the Easement Area. Owner shall conduct the Permitted Uses in compliance with all applicable laws, through sound construction practices and in a lien-free manner, and Owner shall diligently pursue its construction or maintenance activities to completion. Owner shall secure and pay for any building and other permits and approvals, government fees, licenses and inspections necessary for the proper performance and completion

of its construction or maintenance activities in the Easement Area, including, but not limited to any approvals required by City acting in its regulatory capacity.

(b) In connection with Owner's use of the Easement Area pursuant to the Permitted Uses, Owner shall, at its sole cost, maintain the Easement Area (including without limitation, any improvements located thereon) in a good, clean, safe, secure, sanitary, sightly and first class condition. Owner shall use, and shall cause its agents, employees, and contractors to use, due care at all times to avoid any damage or harm to the Public Sewer, the City Property and to native vegetation and natural attributes of the Easement Areas and to minimize slope erosion.

(c) Owner shall obtain a permit from City's Recreation and Park Department and from City's Public Utilities Commission prior to entering the Easement Area to perform any of the Permitted Uses.

2. Term. This Agreement and the Easement shall automatically terminate at the time, if any, that (a) a new sewer connection connects the Owner's Property to a public sewer (excluding any replacement of the Sewer Connection), (b) Owner abandons its use of the Sewer Connection, or (c) Owner fails to comply with any of the terms or conditions of this Agreement and to cure such non-compliance within thirty (30) days after notice by City, or in the event that City determines in its sole discretion that such noncompliance cannot be cured within such period, in the event Owner does not commence cure within such period and diligently pursue such cure to completion within the time period determined by the City in its sole discretion

Upon the occurrence of any such event, this Agreement and the Easement shall terminate immediately. Within thirty (30) days after such event, Owner shall (i) execute and deliver to City a recordable quitclaim deed with respect to the Easement Area in a form reasonably required by City to remove this Agreement and the Easement from record title, effective as of such termination date, and (ii) surrender the Easement Area free from hazards and clear debris generated by the use of the Easement Area by the Owner or its Agents or Invitees. At such time, Owner shall remove the Sewer Connection and all of its property from the Easement Area and shall repair, at its cost, any damage to the Easement Area caused by such removal. Owner's obligations under this Section shall survive any termination of this Agreement.

3. Maintenance and Repair; Compliance with Laws. Owner will install, operate, maintain, repair and, at its sole election, replace or remove, the Sewer Connection at Owner's sole cost. Owner shall maintain the Sewer Connection in a safe, secure, and sanitary condition. Owner, at its sole expense, shall comply with all applicable laws, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force with respect to its activities in the Easement Area, and shall conduct, or shall cause its Agents to conduct, all activities in the Easement Area in a safe and reasonable manner. After any entry by Owner in the Easement Area, Owner shall restore any affected portion of the Easement Area to substantially the same condition it was in immediately prior to such entry (to the extent that such condition complies with the conditions set forth in this Agreement).

4. Restrictions on Use. Owner agrees that, by way of example only and without limitation, the following uses of the Easement Area by Owner, or any other person claiming by or through Owner, are inconsistent with the limited purpose of this Agreement and are strictly prohibited:

(a) Improvements. Except as otherwise expressly provided herein, Owner shall not construct or place any temporary or permanent structures or improvements in, on, under or about the Easement Area, nor shall Owner make any alterations or additions to the Private Sewer, unless Owner first obtains City's prior written consent.

(b) Dumping. Owner shall not cause or permit the dumping or other disposal on,

under or about the Easement Area of landfill, refuse, Hazardous Material (as defined below) or any other materials that are unsightly or could pose a hazard to the human health or safety, native vegetation or wildlife, or the environment.

(c) Public Sewer. Owner shall not take, nor permit any other party to take, any action in, on, under or about the Easement Area that could damage, endanger or interfere with the Public Sewer.

(d) Public Access. Owner shall not restrict public access to the Easement Area without first obtaining City's prior written consent.

(e) Hazardous Materials. Owner shall not cause, nor shall Owner allow any of its Agents or Invitees (as such terms are defined below) to cause, any Hazardous Material (as defined below) to be brought upon, kept, used, stored, generated or disposed of in, on or about the Easement Area, except that Owner may transport over the Easement Areas, in compliance with all applicable laws, those materials and substances reasonably necessary for the Permitted Uses. Owner shall immediately notify City when Owner learns of, or has reason to believe that, a release of Hazardous Material by Owner or any of its Agents or Invitees has occurred in, on or about the Easement Area. Owner shall further comply with all laws requiring notice of such releases or threatened releases to governmental agencies, and shall take all action necessary to mitigate the release or minimize the spread of contamination. If Owner or its Agents or Invitees cause a release of Hazardous Material in the Easement Area or on City Property, Owner shall, without cost to City and in accordance with all laws and regulations, return the affected Easement Area or City Property, as applicable, to the condition immediately prior to the release. In connection therewith, Owner shall afford City a full opportunity to participate in any discussion with governmental agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree or other compromise proceeding involving Hazardous Material.

"Hazardous Material" means material that, because of its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state or local governmental authority to pose a present or potential hazard to public health, welfare or the environment. "Hazardous Material" includes, without limitation, any material or substance defined as a "hazardous substance, pollutant or contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 *et seq.*, or pursuant to Section 25316 of the California Health & Safety Code; a "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the Easement Area or are naturally occurring substances in the Easement Area, and any petroleum, including, without limitation, crude oil or any fraction thereof, natural gas or natural gas liquids. The term "**release**" or "**threatened release**" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about the Easement Area.

(f) Nuisances. Owner shall not conduct any activities on or about the Easement Area that constitute waste, nuisance or unreasonable annoyance (including, without limitation, emission of unreasonably objectionable odors, noises or lights) to City, to the owners or occupants of neighboring property or to the public.

(g) Use of Adjoining Land. Owner acknowledges that the privilege given under this Agreement shall be limited strictly to the Easement Area. Owner shall not use any adjoining lands owned by City for the Permitted Uses.

5. Insurance.

(a) Owner shall procure at its expense and keep in effect at all time, in form and from an insurer reasonably acceptable to City, as follows:

(i) Commercial general liability insurance with limits not less than \$1,000,000 each occurrence, combined single limit for bodily injury and property damage, including coverage for contractual liability, personal injury, broad form property damage, products and completed operations. Such policy shall include endorsements for (1) false arrest, detention or imprisonment or malicious prosecution; (2) libel, slander or defamation of character; (3) wrongful entry or eviction or invasion of the right of privacy. Any deductible under such policy shall not exceed \$10,000 for each occurrence.

(ii) Automobile liability insurance with limits not less than \$1,000,000 for each occurrence combined single limit for bodily injury and property damage, including coverage for owned, non-owned and hired automobiles, as applicable. Any deductible under such policy shall not exceed \$10,000 for each occurrence.

(iii) If using any employees to perform work within the Easement Area, or if using any contractors using such employees, Workers' Compensation Insurance, including Employers' Liability, with limits not less than \$1,000,000 for each accident, covering all employees employed in or about the Easement Area to provide statutory benefits as required by the laws of the State of California.

(b) All insurance policies required hereunder shall (i) be written on an occurrence basis, (ii) name City, together with its officers, agents and employees, as additional insured, (iii) specify that such policies are primary insurance to any other insurance available to the additional insureds with respect to any claims arising out of this Agreement and that insurance applies separately to each insured against whom claim is made or suit is brought, (iv) provide for severability of interests and that an act or omission of one of the named insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to any insured, (v) afford coverage for all claims based on acts, omissions, injury or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period, and (vi) be endorsed to provide thirty (30) days prior written notice of cancellation, non-renewal or reduction in coverage to the other party.

(c) If requested, Owner shall deliver certificates of insurance to City in form and with insurers satisfactory to City, evidencing the coverages required hereunder, together with complete copies of the policies at such City's request. If Owner fails to procure such insurance or to deliver such policies or certificates, after five (5) business days prior written notice, City may procure, at its option, such insurance on Owner's behalf, and Owner shall pay the acting party for the cost thereof within five (5) business days of the acting party's delivery of bills therefor.

(d) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall be double the occurrence or claims limits specified above.

(e) Owner's compliance with the provisions of this Section shall in no way relieve or decrease its indemnification obligations or other obligations under this Agreement. Owner shall be responsible, at its expense, for separately insuring the Sewer Connection and its personal property.

(f) Notwithstanding anything to the contrary contained herein, Owner hereby waives

any right of recovery against City for any loss or damage sustained by City with respect to the Easement Area, whether or not such loss is caused by the fault or negligence of the other party, to the extent such loss or damage is covered by insurance that the damaged party is required to purchase under this Agreement or is otherwise actually recovered from valid and collectible insurance covering such damaged party. Owner agrees to obtain a waiver of subrogation endorsement from each insurance carrier issuing policies relative to the Easement Area; provided, however, that failure to do so shall not affect the above waiver.

(g) Owner acknowledges that City maintains a program of self-insurance and agrees that City shall not be required to carry any insurance with respect to this Agreement.

6. Notices. All notices, demand, consents or approvals given hereunder shall be in writing and shall be personally delivered, or sent by a nationally-recognized overnight courier service that provides next business day delivery services, provided that next business day service is requested, or by United States first-class mail, postage prepaid, to the following addresses (or any other address that a party designates by written notice delivered to the other party pursuant to the provisions of this Section):

If to City:	City and County of San Francisco Real Estate Division 25 Van Ness Avenue, Suite 400 San Francisco, CA 94102 Attn: Director of Property Fax No.: (415) 552-9216
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If to Owner:

7. Indemnity. Owner shall indemnify, defend, reimburse and hold harmless City and City's Agents and each of them, from and against any and all demands, claims, legal or administrative proceedings, losses, costs, penalties, fines, liens, judgments, damages and liabilities of any kind arising out of or relating to the use of the Easement Area by Owner or any of Owner's Agents or Invitees, except to the extent caused by the intentional acts or negligence of City or any City Agents. The foregoing indemnity shall include, without limitation, reasonable attorneys', experts' and consultants' fees and costs, and shall survive any termination or extinguishment of the Easement or this Agreement.

8. Waiver of Claims. Owner covenants and agrees that City shall not be responsible or liable for, and Owner hereby waives all rights against City and its Agents and releases City and its Agents from, any and all claims relating to any injury, accident or death of any person or loss or damage to any property in or about the Easement Area from any cause whatsoever, except as expressly otherwise set forth in this Section. Nothing herein shall relieve City from liability to the extent caused by the negligence or willful misconduct of City or its Agents of its obligations hereunder or under law, but City shall not be liable under any circumstances for any consequential, special or punitive damages. City would not be willing to enter into this Agreement without such a waiver of liability for consequential, special or punitive damages due to the acts or omissions of Owner or its Agents or Invitees, and Owner expressly assumes the risk with respect thereto. Accordingly, as a material part of the consideration for this Agreement, Owner fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action, and covenants not to sue, City or its Agents for any matters arising out of this Agreement or the Easement Area, except to the extent such claims result from the gross negligence and willful misconduct of City or its Agents or City's breach of its obligations

hereunder or under law.

In connection with the foregoing release, Owner acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Owner acknowledges that the releases contained herein include all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims. Owner realizes and acknowledges that it has agreed to this Agreement in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The releases contained herein shall survive any termination of this Agreement.

9. Run with the Land; Exclusive Benefit of Parties. The rights and obligations set forth herein shall run with the land and shall bind and inure to the benefit of the successors and assigns of the parties hereto. This Agreement is for the exclusive benefit of Owner and City and their respective successors and assigns and not for the benefit of, nor give rise to any claim or cause of action by, any other party. This Agreement shall not be deemed a dedication of any portion of the Easement Area to or for the benefit of the general public.

10. Proprietary Capacity. Owner understands and acknowledges that City is entering into this Agreement in its proprietary capacity and not as a regulatory agency with certain police powers. Notwithstanding anything to the contrary herein, no approval by City of any plans and specifications or other materials submitted by Owner to City for City's approval pursuant to this Agreement nor any other approvals by City hereunder shall be deemed to constitute approval of City acting in its regulatory capacity or any governmental or regulatory authority with jurisdiction over the Easement Area. City makes no representations or warranties that City, acting in its regulatory capacity and under its police powers, will ultimately approve of any draft plans, specifications or other materials nor issue any necessary permits.

11. Prevailing Wages. City and Owner agree that the provisions of Section 6.22(E) of the San Francisco Administrative Code, as such provisions may be amended from time to time, shall be incorporated by this reference in this Agreement to the extent applicable. Any person performing labor in the Easement Area shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California. Owner shall include, in any contract for such work, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Owner shall further require that any contractor performing any of such work shall provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing labor in the Easement Area.

12. MacBride Principles – Northern Ireland. City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 *et seq.* City also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Owner acknowledges that it has read and understands the above statement of the City concerning doing business in Northern Ireland.

13. Tropical Hardwood and Virgin Redwood Ban. City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product, except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code.

14. General Provisions. (a) This Agreement may be amended or modified only by a writing signed by City and Owner and recorded in the Official Records of the City and County of San Francisco. (b) No waiver by any party of any of the provisions of this Agreement shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. (c) This Agreement contains the entire agreement between the parties with respect to the Easement and all prior negotiations, discussions, understandings and agreements are merged herein. (d) This Agreement shall be governed by California law and City's Charter. (e) If either party commences an action against the other or a dispute arises under this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes hereof, reasonable attorneys' fees shall be based on the fees regularly charged by private attorneys in City with comparable experience, notwithstanding City's or Owner's use of its own attorneys. (f) This Agreement does not create a partnership or joint venture between City and Owner as to any activity conducted by Owner on, in or relating to the Easement Area. (g) City's obligations hereunder are contingent upon approval of this instrument by City's Board of Supervisors and Mayor, each in their respective sole discretion, this Agreement shall be null and void if such approval is not obtained. (h) Time is of the essence of this Agreement and each party's performance of its obligations hereunder. (i) All representations, warranties, waivers, releases, indemnities and surrender obligations given or made in this Agreement shall survive the termination of this Agreement or the extinguishment of the Easement. (j) If any provision of this Agreement is deemed invalid by a judgment or court order, such invalid provision shall not affect any other provision of this Agreement, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as partially invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purpose of this Agreement. (k) All section and subsection titles are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

OWNER:

CITY: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
John Updike
Acting Director of Property

Date: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Carol Wong, Deputy City Attorney

Exhibit A

Legal Description of City Property

Exhibit B

Legal Description of Owner Property

Exhibit C

Legal Description of Easement Area

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS
ORDER NUMBER _____

Re: Determination to vacate a portion of Cayuga Avenue west of Naglee Avenue pursuant to California Streets and Highways Code Sections 8300 et seq. and Section 787(a) of the San Francisco Public Works Code.

WHEREAS, In general, public streets and sidewalks are owned by the City and County of San Francisco as a public right-of-way; and

WHEREAS, On July 30, 2010, the Recreation and Park Department submitted a request to the Department of Public Works to vacate a portion of Cayuga Avenue, west of Naglee Avenue (the "Vacation Area") to enable for the renovation of Cayuga Park; and

WHEREAS, The Vacation Area is specifically shown on the attached draft SUR Map No. 2011, dated March 17, 2011; and

WHEREAS, Pursuant to the California Streets and Highway Code, the Department of Public Works, Bureau of Street Use and Mapping (the Department) has initiated the process to vacate the Vacation Area; and

WHEREAS, In the attached Planning Department's letter dated March 11, 2011, finding that the proposed street vacation is in conformity with the General Plan and consistent with the eight priority policies of Planning Code Section 101; and

WHEREAS, On April 29, 2011, the Planning Department determined that the Cayuga Park Renovation was exempt under Categorical Exemption, Class 1, 3, and 4 in conformance with the State CEQA Guidelines Sections 15301, 15303, and 15304; and

WHEREAS, Other than facilities of the San Francisco Public Utilities Commission (the PUC), there are no other utilities in the area to be vacated with the exception of sewer laterals for 5 private property owners whose property abuts the vacation area; and

WHEREAS, The Recreation and Park Department sent notices of the proposed street vacation to the adjoining property owners of the Vacation Area, and has no objections from adjoining property owners, the notices were sent by Department; and

WHEREAS, Pursuant to the Streets and Highways Code Section 892, the Department determines that the Vacation Area is currently not necessary for non-motorized transportation, though the Vacation Area, once incorporated into Cayuga Park, would be available for non-motorized transportation.; and

WHEREAS, In a memorandum dated _____, from the City's Director of Property to the Recreation and Park Department, the Director of Property determined that an interdepartmental transfer of the Vacation Area and formerly vacated portions of Cayuga Avenue and Mandan Avenue from the Department to the Recreation and Park Department was acceptable for the reasons set forth in the proposed Street Vacation Ordinance; and

WHEREAS, The Director of Public Works for the City and County of San Francisco has determined the following:

1. The vacation is being carried out pursuant to the California Streets and Highways Code sections 8300 et seq.
2. The vacation is being carried out pursuant to section 787(a) of the San Francisco Public Works Code.
3. The Vacation Area to be vacated is shown on the draft SUR Map No. 2011.
4. The Vacation area is necessary for the renovation and expansion of Cayuga Park.
5. The Vacation Area is unnecessary for the City's present or prospective public street, sidewalk, or public service easement purposes as described herein.
6. Pursuant to the Streets and Highways Code Section 892, the Vacation Area is not necessary for non-motorized transportation for the reasons set forth herein, and therefore has no use as a non-motorized transportation facility.
7. The interdepartmental transfer of the Vacation Area and formerly vacated "paper" street area on a portion of Cayuga Avenue and Mandan Avenue from the Department to the Recreation and Park Department, as confirmed by the Director of the Real Estate Division, serves the public purposes as set forth in the proposed Street Vacation Ordinance.
8. There are no physical public or private utilities or utility facilities within the Vacation Area, except for the private sewer laterals and the PUC facilities specified herein. The PUC, by letter dated _____, 2011, finds acceptable the proposal to enter into a Memorandum of Agreement with the Recreation and Park Department concerning PUC access to its facilities in the Vacation Area and paper streets as shown in SUR Map No. 2011.
9. The public interest, convenience and necessity require that, except as provided in this Order, no other easements or other rights be reserved for any public or private utility or facilities that are in place in such Vacation Area and that any rights based upon any such public or private utilities or facilities may be extinguished.
11. The Vacation Area is unnecessary for the City's present or prospective public street purposes, subject to satisfaction of the condition specified below: (1) jurisdictional transfer of the Vacation Area and paper street portions of Cayuga and Mandan Avenues from the Department of Public Works to the Recreation and Park Department at no cost, subject to certain conditions, is a policy matter for the Board; (2) there are no physical public or private utilities affected by the vacation of the Vacation Area except as stated below; (3) the Recreation and Park Department is working with the San Francisco Public Utilities Commission ("PUC") to develop a Memorandum of Agreement concerning PUC access to and maintenance of sewer utilities in Cayuga Avenue; and (4) the vacation should be subject to the creation of private easements for sewer later connections to 5 properties backing on to the Vacation Area as described further herein;

NOW THEREFORE BE IT ORDERED THAT,

The Director approves all of the following documents attached hereto:

1. Resolution of Intent to vacate a portion of Cayuga Avenue west of Naglee Avenue;
2. Ordinance to vacate a portion of Cayuga Avenue west of Naglee Avenue;
3. Vacation Area SUR Map No. 2011

The Director further recommends the Board of Supervisors move forward with the legislation to vacate said Street.

The Director recommends the Board of Supervisors approve all actions set forth herein and heretofore taken by the Officers of the City with respect to this vacation. The Director further recommends the Board of Supervisors authorize the Mayor, Clerk of the Board, Director of the Division of Real Estate, County Surveyor, and Director of Public Works to take any and all actions which they or the City Attorney may deem necessary or advisable in order to effectuate the purpose and intent of this Ordinance (the filing of the Ordinance in the Official Records of the City and County of San Francisco, designating the Recreation and Park Department as the City department with jurisdiction over the Vacation Area, finalizing the Memorandum of Agreement between the PUC and Recreation and Park Department and the private easements for sewer laterals).

Attachments:

1. SUR Map No. 2011, dated March 17, 2011.
2. Planning Department's letters of March 11 and April 29, 2011.
3. Memo from Director of Property to Director of Public Works concerning the vacation and interdepartmental transfer..

RECOMMENDED:

Bruce R. Storrs, City and County Surveyor for
Edward D. Reiskin, Director of Public Works
Street-Use and Mapping

Fuad S. Sweiss

City Engineer & Deputy Director for Engineering

cc. Board of Supervisors (signed)

DPW Order No. _____ (

Page 4

Ed Harrington, PUC
John Malamut, City Attorney's Office
Jerry Sanguinetti, DPW-BSM

John Updike, DRE

APPROVED:

Edward D. Reiskin



Amy L. Brown
Director of Real Estate



May 22, 2009

Mr. Edward D. Reiskin
Director of Public Works
Department of Public Works
City Hall, Room 348
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102

Re: Revised Letter - Jurisdictional Transfer from Department of Public Works to the Recreation and Parks Department.

Dear Mr. Reiskin:

The Bay Area Rapid Transit District (BART) has initiated a program to retrofit the original BART system to withstand major seismic events. One of the properties that will be impacted by this earthquake safety program is Cayuga Park located at 301 Naglee Avenue in the City and County of San Francisco. In the process of working with the Recreation and Parks Department (RPD) to issue BART a permit to enter and use the property for work related to this project, we have discovered that portions of Cayuga Park are still under the jurisdiction of the Department of Public Works (DPW).

Our records indicate that Mandan Avenue and a portion of Cayuga Avenue were vacated and included in Cayuga Park, but these vacated parcels were never transferred from DPW to RPD jurisdiction. Attached are exhibits depicting the subject area along with supporting documentation. The area marked No. 2 in Exhibit A make up the two vacated streets. Mandan Avenue and a portion of Cayuga Avenue were vacated on May 6, 1946 through Resolution No. 5468. Attached is a record of the Resolution. The previous letter dated May 18, 2009 also requested the jurisdictional transfer of Block 7096A, Lot 8, however we have since discovered Resolution No. 8901 which confirms that this triangular parcel was transferred from DPW to RPD in 1949.

Although these two parcels are all technically still under DPW jurisdiction, RPD has taken all responsibility for maintenance since the park was built. I am writing to propose that the departments submit a request for a jurisdictional transfer of these parcels from DPW to RPD at no cost to RPD, in light of RPD's ongoing maintenance and repair of these parcels in connection with its responsibility for the park as a whole.

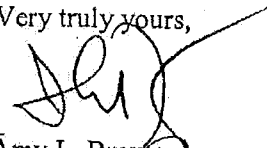
If DPW has no objections, please confirm by signing below where indicated and returning a copy of this letter to me. If DPW does not object, the Real Estate Division will initiate the jurisdictional transfer of the above-referenced property from DPW to RPD. We look forward to your response.

I:\Work\MBayol\62\6233Cayuga\Transfer of Jurisdiction Request 3.doc

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(415) 554-9850 • FAX: (415) 552-9216

If you have any questions on this matter, please contact Marta A. Bayol of my staff at 554-9865 or Daniel LaForte of Recreation and Parks Department at 831-2742.

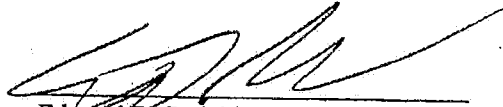
Very truly yours,


sd Amy L. Brown
Director of Property

The Department of Public Works does not object to a jurisdictional transfer of the parcels as shown in Exhibit A from the Department of Public Works to the Recreation and Parks Department.

Department of Public Works

By:


Edward D. Reiskin
Director

Attachments

cc: Daniel LaForte, RPD
Marvin Yee, RPD
Joanne Sakai, City Attorney's Office
Barbara Moy, DPW-BSM



John Updike
Acting Director of Real Estate



April 25, 2011

Mr. Edward D. Reiskin
Director of Public Works
Department of Public Works
City Hall, Room 348
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Street Vacation and Jurisdictional Transfer from Department of Public Works to the Recreation and Parks Department

Dear Mr. Reiskin:

In September 2009, the Recreation and Park Commission approved a conceptual plan for the renovation of Cayuga Park. The conceptual plan includes a proposal to incorporate the "dead-end" portion of Cayuga Avenue into the new park design. In order to implement the new park design, a portion of the underutilized Cayuga Avenue will be vacated and transferred to the Recreation and Park Department. Attached is SUR 2011 showing the proposed area to be vacated. In addition, we have attached a drawing of the proposed design for Cayuga playground and clubhouse. The Real Estate Division recommends the street vacation and jurisdictional transfer of this property.

If you have any questions on this matter, please contact Marta Bayol of my staff at 554-9865 or Marvin Yee of Recreation and Park Department at 581-2541.

Sincerely yours,


John Updike
Acting Director of Real Estate

cc: Marvin Yee, Rec-Park
John Malamut, City Attorney's Office
Bruce Storrs, DPW-BSM

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