

Supplemental Material for CEQA Hearing on 590 Leland, Planning case 2014.0936, currently scheduled for Apr. 10 2018.

Please note: the format of this material is taken from Planning's Project Analysis of the DR for 590 Leland (pp. 11-17 in the packet submitted for the Jan, 18 hearing before the Planning Commission, hereafter referred to as Packet; and to be found at <http://commissions.sfplanning.org/cpcpackets/2014.0936DRPc4.pdf>)

Each section contains responses to elements in that Packet.

Issue #2 (John McLaren Park Improvements) [CEQA Category Land Use/Planning]

Factual error: The PUC is actually constructing the rain garden, not working on improvements to it.

Questions: Planning states that they contacted RPD between Nov. 2015 and Jan. 2018. How many times did they contact RPD? With whom did they speak?

The final statement of this section (and others in the Full Analysis) is "SF Rec and Park [RPD] does not have concerns with the Project." We contend it would be just as accurate, if not more so, to say "RPD does not have concerns with the Vis Valley Planning Alliance's (VVPA) opposition to the Project."

Representatives of the VVPA also contacted RPD during this same time period. The only negative comment about the proposal that RPD consider acquiring the site was a lack of desire to renovate the church building (which is fine with the VVPA).

A request was submitted to RPD to add 590 Leland to their Acquisition Roster. The property was evaluated per stated departmental procedures, and found to be suitable for passive recreation. It is also rated as serving a High Needs Area. The site was endorsed by PROSAC in July 2015 and is on the current Roster. See also Issue #9.

Issue #4 (Natural Habitats & Environment) [CEQA Category: Biological Resources]

In Planning's summary, a quotation is provided from the original Environmental Evaluation Application, which includes the following:

"...No contiguous and substantial habitat for any rare or endangered plant of animal species is located on or adjacent to the Project site." (underlining added).

Subsequently, Planning refers to "...a letter submitted by Dr. Michael Vasey ...that indicated the potential presence of [2 plants] at and near the project site. (Again, underlining added.) Yet when Planning employed ESA to perform rare plant surveys, they were apparently instructed to search only "within the ... project site." Furthermore, at no time did either Planning or ESA contact Dr. Vasey, or others who had been present when he visited the site, to ask where the plants he mentions were.

Not surprisingly, according to Planning, "No rare plants...were observed by ESA...", and ESA's report refers only to the site itself.

On the next page is a photo of the locally rare California croton, taken by Margo Bors on Feb. 10, 2018. The plant is located very near the property line. There are also photos available taken in the RPD parkland north of Raymond, part of which Dr. Vasey described as "rare remnant sand dune habitat". There are croton there too, and this is where Dr. Vasey saw the spineflower.

The appellants find the biological resources review to have been incomplete and inaccurate for purposes of CEQA.



Addition: On Friday March 9, 2 Planning staff members and 2 representatives from ESA met with representatives from the VVPA. All have now seen the croton plants and the habitat areas. Discussion is ongoing.

Issue #5 (View): [CEQA category: Aesthetics]

At the hearing before the Planning Commission on Jan 18 2018, the DR requestor argued that Planning Staff, despite having an additional view analysis done by the developer at the request of the Commission, still had not adequately addressed the issue of views. The DR requestor had pointed out that the houses proposed for construction as part of the Project will block scenic views currently available from public parkland – specifically, views from the public open space directly across Raymond to the north – open space that is owned by RPD and is part of McLaren Park. The Project will also block views of the bay from the (currently) unpaved pathway through RPD-owned public open space along the east side of Visitacion Ave, also part of McLaren Park. [Packet -- p. 60; DR Request, p. 14].

Despite this, the Commission voted to accept Planning staff's recommendation to not accept the DR and approve the Categorical Exemption.

The Appellant still argues Planning's analysis of views is inadequate, and that the Project should not have been given a Categorical Exemption. The purpose of this section is to support that argument.

In the CEQA Guidelines provided by the California Natural Resources Agency. under "Aesthetics", there are four Sample Questions suggested for inclusion in an environmental review. [p.325 in http://resources.ca.gov/ceqa/docs/2016_CEQA_Statutes_and_Guidelines.pdf]

Two of those questions are:

"Would the project

(a) Have a substantial adverse effect on a scenic vista?"

(c) Substantially degrade the existing visual character or quality of the site and its surroundings?

In San Francisco, the spirit of these questions seem to have been incorporated in two ways: by including in Planning's Design Review Checklist, the question "Does the Project protect major public views from public spaces?", and by including considerations of views in the Urban Design Element and other parts of the General Plan.

In the city's Design Review Checklist for this Project, in answer to the question "Does the Project **protect major public views from public spaces?**", the box for YES is checked. [Packet, p. 19, bold type added]

We strongly disagree. On the next page are two photos provided by the developer as part of the view analysis the Commission requested. They are taken from the RPD owned public open space and parkland north of Raymond, and clearly showing that the scenic view from the park would be blocked, not protected, by the Project. [Packet, pp. 122 & 123].





This is a photo showing the path that goes through that same open space parkland. Students going from the Sunnydale Public Housing to the Visitacion Valley Middle School and back, and others use this path and appreciate the view.

Finally, on the next page is a photo showing the panoramic view of the bay to be seen just off the northwest corner of the site, on the adjacent RPD land. That view, which would also be blocked by the proposed 3-story houses fronting on Raymond, is what seniors, school children, and neighborhood residents are treated to as they just enjoy a walk, or use the public pathway next to Visitacion Ave. to go between home and school, or make their way to the Coffman Pool and other RPD recreational facilities to the south. We contend the view would be considered “major” by all of them. It may not be the view from Twin Peaks, but it is THEIR view.

We consider our case to be established: the project does not warrant a Categorical Exemption because scenic **views** from public parkland that the neighborhood considers to be “major” are **NOT protected**. Instead, the views are **blocked**.

But we would like to consider the view issue in more detail. We have additional points to make. We also have procedural questions to pose about what constitutes a “major public view”, and about the way the city apparently decides (according to the General Plan) whether a view is “important”, and thus is worthy of “protection”.



The Bay can be seen on the left middle of the photo.

From Planning's Full Analysis: "The Department finds that the Project is not located in a view corridor protected by the General Plan." [Packet, p. 13]

Explanatory material meant to justify this statement follows on the same page. In that material, reference is made to three documents:

the city's Residential Design Guidelines [adopted Dec. 4, 2003],
<http://sf-planning.org/sites/default/files/FileCenter/Documents/5356-resdesfinal.pdf>

the Urban Design Element of the General Plan [original date unknown; amended by resolution several times between 1990 and 2010],

and the city's Urban Design Guidelines [currently under revision; the final draft, dated Nov. 22 2017, can be accessed via <http://sf-planning.org/urban-design-guidelines>].

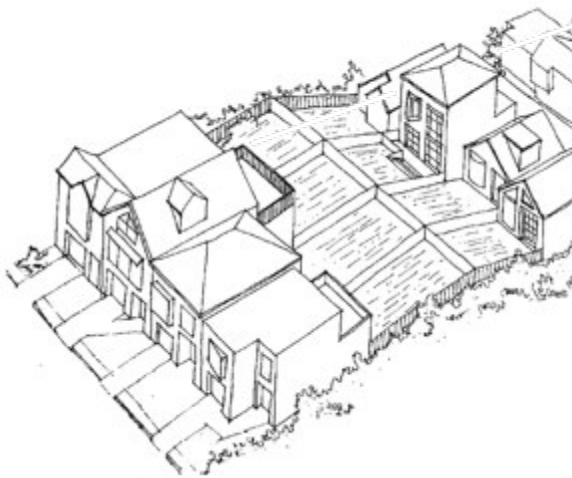
All 3 documents are used, presumably to justify Planning's conclusion that the views from Leland and Raymond Aves. do not deserve protection. Strangely, the first reference provided could be used to argue that they **do** deserve protection. In a footnote on p. 13 of the Packet, the reader is referred to page 18 of the Residential Design Guidelines.

Here is most of what appears on p. 18 of that document (underlining added).

VIEWS

GUIDELINE: Protect major public views from public spaces.

The Urban Design Element of the General Plan calls for the protection of major public views in the City, with particular attention to those of open space and water. Protect major views of the City as seen from public spaces such as streets and parks by adjusting the massing of proposed development projects to reduce or eliminate adverse impacts on public view sheds. The General Plan, Planning Code and these Guidelines do not provide for protecting views from private property.



Views from this private building and deck are not protected.



Views from public areas, such as parks, are protected. *The massing of this building impacts the view from the public park.*

18 • Residential Design Guidelines: December 2003

We think this supports our case. We also note that in a Glossary on p. 56 of the Residential Design Guidelines, the term “Major Public View” is not defined (underlining ours). We assume the rest of the material on p. 13 of the Packet constitutes a discussion of whether or not the views from the public space on Raymond or along the pathway

directly to the west of the Project are “major”. Or “important”.

Continuing through this material, one finds a reference to two maps [“Street Areas Important to Urban Design Views” and “Quality of Street Views”], allegedly to be found on “Page I.5.16 of the Urban Design Guidelines” (Packet, p. 13). Those maps can actually be found on pp. 204-5 of the Packet.

[There is no page I.5.16 in the Final Draft of the Urban Design Guidelines and there are no maps with the titles mentioned anywhere in the document. This reference was apparently taken straight from p. 18 of the Residential Design Guidelines, where it appears in a separate box. It was not possible to include that box in what is reproduced above, but if a person follows the link to the Residential Guidelines provided on page 4, s/he will see the box. If one looks at the Urban Design Guidelines, one finds that section S4 (Create, Protect, and support View Corridors) does contain the following: “While views from private property are not protected by city regulations, the General Plan does protect specific view corridors from the public realm.” [UDG, p.20]. There is no information given in this document as to WHERE in the General Plan such protection is discussed, nor what is meant by “specific view corridors”.]

On the map labeled “Street Areas Important to Urban Design and Views”, at least one gets an idea of which streets might be considered “important”. Streets that “provide a view of an important building”, “define city form”, “extend the effect of public open space”, “are on the route of the 49Mile Scenic Drive”, or have “an important street view for orientation” are marked on the map. Lacking any statement to the contrary, one assumes that a street meeting any one of these criteria would be considered “important”.

Planning acknowledges that according to this map, the blocks of Leland and Raymond under consideration are “...both considered ‘Streets that extend the effect of Public Open Space’.” (Packet, p. 14) We agree: those two streets certainly do extend the effect of public open space by providing access to the panoramic vista views to be seen from open space very close by. Does that not make them “Important”? Does that not qualify the view available from the public open space as being worthy of protection?

Apparently not, since Planning goes on to dismiss the street view on both streets as “Average”, citing the map labeled “Quality of Street Views” [Packet, p. 207]. But where is the explanation as to what criteria were used to classify views when this (undated) map was produced? Where are the definitions of what constitutes an Excellent, Good, or Average view? (For that matter, what is the definition of a street view?) One is not reassured by the caveat at the bottom of the map: “The City and County of San Francisco (CCSF) does not guarantee the accuracy, adequacy, completeness or usefulness of any information. CCSF provides this information on an “as is” basis without warranty of any kind, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no responsibility for anyone’s use of the information.”

Lacking this information, all one can do is note, as did the DR Requestor, that the vast majority of the “Excellent” and “Good” views seem to be located in the northern and western portions of the city. And wonder if a view that in one neighborhood would be only “Average” (because they have even better views available), in another neighborhood would be considered “Excellent” because it’s the only view they’ve got.

Continuing: on p. 14 of the Packet, Planning states that “ The nearest ‘Important View’ is more than 5,000 feet [i.e., a mile] away, as shown in the map titled ‘General Plan Urban Design Element - Important Views.’” [Packet, p. 208]. There is no information provided as to exactly where this ‘Important View’ is or why it is considered ‘Important’.

SUMMARY. Planning’s environmental analysis of Aesthetics: Views for this Project is incomplete and sloppily done. It includes references to non-existent pages in the wrong document, and conclusions that are drawn using terms for which no definitions are provided.

We also contend the analysis is inaccurate.

In the Introduction to the City’s General Plan, one finds Priority Policy 8: That our parks and open space and their **access to sunlight and vistas be protected from development**. Planning’s own analysis refers (indirectly) to the statement in the Residential Design Guidelines that “Views from public areas, such as parks, are protected”. Furthermore, according to a map in the Urban Design Element of the General Plan, the two street blocks in question fit one of the listed criteria for being a Street Area Important to Urban Design and Views”. Yet, despite all this, the Department comes to the conclusion that the views from Raymond and Leland Avenues are not “Important”, presumably because they are “Average”. Everything hinges on what should be considered a “major” or “important” view.

Lacking definitions in the General Plan for either of those terms, we suggest this: to residents of a neighborhood with no direct access to other vistas, the vista views from its only easily accessible public park space are both major and important. They should be protected. To not do so would result in an unmitigable significant environmental effect.

Addendum: We do note that on the Certificate of Exemption [Packet, pp. 186-193] dated Feb. 12, 2015, under “Remarks”, the project is described as an “in-fill development”, and we are aware that projects qualifying as “in-fill” have been exempt from certain kinds of CEQA analysis since Jan. 1, 2014, courtesy of Senate Bill 743. We also note that nowhere else in the Packet is the term infill used in the descriptions and analysis given, nor was the term mentioned during the hearing before the Planning Commission on Jan. 18 2018. We assume this was due to a tacit recognition that once the Commission had requested a view analysis, and the Department had directed the project sponsor to do a view analysis, the project was no longer being treated as exempt under Senate Bill 743.

However, all parties should be aware that we are prepared to argue that the site does not actually qualify as an “in-fill” site should the question arise.

Issue #6 (Shadow) {CEQA Categories Wind and Shadow; Recreation}

Planning’s analysis of the DR Requestor’s concerns about shadows (which is repeated verbatim from the same section of the comments accompanying the Certificate of Categorical Exemption – Packet p. xx), leaves something to be desired. They point out that the project is exempt from a section of the planning code that “...restricts new shadow upon public open spaces...” because the proposed buildings are less than 40 feet in height. But to their credit, they go on to consider the potential for new shadows anyway, and acknowledge that “... the proposed Project has the potential to cast shadow on John McLaren Park”. This is followed by a brief discussion of two park areas that

could be affected. Sadly, this is also where the analysis becomes incomplete and inaccurate.

They first consider the parkland “to the north and west of the Project area, describing it as consisting “...of Visitacion Avenue with roadside ruderal vegetation”, completely ignoring the fact that there is a public pathway that goes through the area along the east side of Visitacion Avenue. This pathway has been mentioned before: it is used regularly by school children and neighborhood residents (and would be used even more if the Project proceeds, eliminating an often-used shortcut next to the church); it is scheduled for major enhancements by RPD, complete with landscaping including native plants, as part of the McLaren Vision process. Walking is classified as passive recreation; thus, the statement that “the proposed Project would not result in shadow impacts on any recreational areas to the north or west of the Project site” is just plain incorrect. There is also the fact that the added structures, especially the 3 proposed for construction along Raymond Ave., will cast new shadows on the planned native plant landscaping along the path as well as possible shadowing effects the Project might have on the Rain Garden that the PUC is currently constructing on RPD property directly to the west of the Project site. [Curiously, both the path and the rain garden are mentioned in the next section, but not here.]

Finally, there is also discussion of possible shadowing on a community garden (including the incorrect statement that the garden is included in the proposed Project site; it is in fact on RPD land directly adjacent to the Project site). They find a potential that that proposed Project could “...cast shadow on the northern part of the community garden”. And then proceed to argue that the shadow impacts would not increase because the proposed structures (in this case, the 2 houses proposed for construction along Leland Ave.) have heights that are less than the heights of the existing church building on the property, completely ignoring the fact that the two new houses would be located much closer to the community garden than is the church.

Once again, we find this analysis to be both incomplete and inaccurate.

Issue #7 (Accessibility) (CEQA Category: Recreation)

There is a bit of confusion here on both sides (DR Requestor and Planning) because the word “accessible” is used in two senses. These days, “accessibility” almost always means “ADA accessibility”. But there is also the issue of a neighborhood’s access (or lack thereof) to parkland. An example of such confusion: in the summary presented of the VVPA’s concerns [Packet, p. 5], the issue is described as a concern about ADA accessibility to the Park, when in fact the concern is about access to the Park in the other sense. [See Packet, p. 60, DR Request p. 14]. The VVPA’s actual ADA accessibility concern is, as Planning notes, about “Loss of ADA accessible space behind church on Raymond Avenue for nearby Senior Housing residents and general public.” [Packet, p. 5]

Commendably, in the discussion of Issue #7 [Packet p. 15], Planning has attempted to address both meanings. This leads them to pay much attention to the pathway and the potential loss of a shortcut now used by area residents. Unfortunately, there is no mention in this part of the Full Analysis of the space behind the church on Raymond, even though that was noted in the summary of concerns earlier in the document.

There is a reference to “a significant downslope from Raymond to Leland”. Because of the slope, it is hard to find level space in the neighborhood that IS ADA accessible. In fact, that area behind the church is about the ONLY level space near the piece of McLaren Park to which the neighborhood has access. VVPA’s advocacy for

keeping the Project site as open space is linked in part to the thought of how useful that precious flat space would be for the residents of the nearby Senior Center and others as they enjoy passive recreation in the neighborhood.

In omitting consideration of possible effects of losing use of this space, the analysis is incomplete.

Issue #9 (Site Acquisition) [CEQA Category: Land Use/Planning]

Planning acknowledges that the 590 Leland project site (all 5 parcels) is on RPD's Acquisition Roster. They then state that RPD "is not actively pursuing acquisition of this property...", mentioning that "...it has other acquisition priorities and financial obligations that take precedence over this property.", a statement that is almost always true about RPD and acquisitions.

They follow this with a gratuitous reference to Map 03 [on page 17] of the ROSE, and state that the site is "not identified as existing or proposed open space." Well, of course it isn't! The recent update of the ROSE was finalized in April 2014. 590 Leland was added to the department's Acquisition Roster in July 2015.

On that Roster, the site is rated Most Desirable because it is "Located within or Serves a High Needs Area", and "Desirable" because it is suitable for Passive Recreation and because it has "Special Attributes (Scenic Views, Accessibility to Water)". From the spreadsheet that is the Roster, in the box labeled "Important Attributes and Notes from Site Information Sheet": "This property could provide a relatively level trail between natural areas to the north at the Visitacion Valley Middle School and areas to the south, including the McLaren Community Garden and the Coffman Pool. The site is adjacent to existing McLaren ...[any remaining text is unreadable]".

We find this analysis of the possibilities for site acquisition to be inadequate.