

124 LOS AGUAJES AVENUE
FINAL MITIGATED NEGATIVE DECLARATION
RESPONSE TO COMMENTS

APRIL 16, 2009

INTRODUCTION:

An Initial Study was prepared for the 124 Los Aguajes Avenue project because the California Environmental Quality Act (CEQA) requires that an environmental assessment of the proposed project be provided. The environmental analysis determined that the proposed project could potentially have significant adverse impacts related to cultural resources and noise; however, mitigation measures described in the Initial Study and agreed to by the applicant would reduce potential impacts to less than significant levels. In addition, recommended mitigation measures were identified to further reduce less than significant impacts associated with cultural resources and noise issues.

A Draft Mitigated Negative Declaration was prepared for the proposed project, and a public review period was held from December 17, 2008 to January 15, 2009. Comment letters were received from the following members of the public during the comment period:

1. Robert and Patricia Maxim
2. Kellam de Forest

On February 19, 2009, the Planning Commission conducted a public hearing to accept testimony regarding the Draft MND.

Responses to the comments received regarding the Draft Mitigated Negative Declaration are provided below, and the comment letters received are attached.

The purpose of this document is to respond to specific comments received pertaining to environmental issues in the Draft MND. While letters of general support or opposition to the project are acknowledged and included in this document for the record, no formal response is provided. In addition, comments received not related to the environmental issues outlined in the Draft MND, such as land use issues and social or fiscal impacts of the project, are outside the scope and not addressed in this document. However, all comments will be forwarded to the Planning Commission for consideration.

Letter No. 1
Robert & Patricia Maxim
February 27, 2009

- 1-1. **Comment:** Land Use and Zoning issues related to zoning setbacks were not discussed in the initial study. Commenter noted other recent projects which did not require setback modifications.
Response: The Planning Commission will consider the modification requests to allow encroachments into the setbacks as part of the proposed project. Modifications are allowed by the Zoning Ordinance and is a land use issue that is further discussed in the Planning Commission Staff Report dated April 16, 2009.
- 1-2. **Comment:** Local Coastal Plan Policies 5.3 and 5.4 are not being met with regards to architectural style, mass, bulk and scale. Commenter cited recent projects which have been approved that have been proposed in Spanish Colonial Revival which is consistent with the West Beach neighborhood.
Response: These issues as they relate to potential impacts to aesthetic and historic resources from a CEQA perspective are discussed in Sections 1. Aesthetics and 4. Cultural Resources of the Initial Study and Mitigated Declaration (IS/MND). The findings of IS/MND are that the project would not significantly impact a public scenic vista, the aesthetic environment, or historic resources. CEQA significance thresholds for these issue areas are further discussed in Sections 1 and 4 of the IS/MND. The projects compatibility with the West Beach neighborhood's architectural style, mass, bulk and scale as it relates to the City's specific design guidelines and planning policies is further discussed in the Planning Commission Staff Report dated April 16, 2009.
- 1-3. **Comment:** Visual impacts viewed by passengers of Amtrak service and noise impacts created by train traffic should be considered significant.
Response: The project will not significantly impact or block scenic views or public vistas. The noise study prepared for the project considered train traffic adjacent to the site. As discussed in the initial Study, the project as proposed the project will be constructed to meet the required 45 dBA interior noise level and provides outdoor living areas which do not exceed 75 dBA. The project would, therefore, not result in a significant impact in the issue area of noise.

Letter No. 2
Kellam de Forest (via e-mail)
March 2, 2009

- 2-1. **Comment:** Land Use and Zoning Designations: "and is requesting modifications in the setback requirements." The report should state the exact setback modifications requested by the applicant. It is only through examining plans that the applicant it is ascertained that the applicant is requesting a reduction of 5 feet on the front setback and 4 feet on each of the side interior setbacks. Such modifications are substantial and would negatively impact the neighborhood. No explanation is given for such modifications as required by City Code.
Response: See Response 1-1 above.

- 2-2. Comment:** Visual Aesthetics: The following comments were made: (a) Should include discussion of project impacts on the "proposed West Beach Historic District" in relationship to scenic views. (b) Concern was raised that the impact of the proposed building's height was not evaluated with regard to views from the train station and highway 101. (c) The proposed structure does not follow CEQA guidelines of compatibility for structures adjacent to Historic Landmarks. (d) The comments from Historic Landmarks Commission, Architectural Board and Review and Planning Commission are dated and should be updated.
- Response:** See Responses 1-1, 1-2, and 1-3 above. As stated in the Initial Study, the project impacts related to visual aesthetics are considered less than significant. This conclusion is based on staff's review of the proposed project with regard to existing setting and policies and previous input from the design review boards. The waterfront historical survey was started several years ago, however, the data from the survey has not been finalized. At this time, the exact nature of any proposed historic district or the timing of any hearing on the subject is unknown. The Historic Structures report analyzes the projects impacts on the existing neighborhood and has been determined by staff and HLC to meet the minimum requirements of the Master Environmental Assessment.
- 2-3. Comment:** Recommended mitigations measures for biological resources should be revised to remove all non-native plants material within the Mission Creek riparian corridor and should include the entire portion of the property between the building and the creek.
- Response:** As discussed in the Initial Study, the property abuts the channelized bank of Mission Creek at the northerly property line and there is no existing riparian corridor. The applicant is proposing a 25 foot development restriction area next to the creek, which meets the setbacks required by the City.
- 2-4. Comment:** Cultural Resources: (a) The Historic Landmarks Commission did initiate the designation of the building as a structure of merit. (b) The ABR did not communicate with the Historic Landmarks Commission concerning the recommendation that the building be designed in a Spanish Colonial Revival Style. (c) The design of the project should be required to be reviewed by both the Architectural Board of Review and the Historic Landmarks Commission because of the proposed West Beach Historic District.
- Response:** As stated in the Initial Study, on page 15 and 16, the ABR is the reviewing body with regard to compliance with the City's Design Review Guidelines. The Historic Landmarks Commission is the reviewing body for the historic structures report. On April 13, 2005 the historic structures report prepared for the project was accepted as complete by the Historic Landmarks Commission. At this time, it is not planned that HLC would review the report again. The required mitigation measures in the Historic Structures report which was accepted by the Historic Landmarks Commission do not specifically require that the new building to be Spanish Colonial Style. However, construction in the Spanish Colonial style is recommended in the Historic Structures Report under advisory measures and was recommended by the City's Historian during the HLC hearing on the historic structures report. As stated before, the potential historic district has not been reviewed or approved by City Council and, therefore, there is not a requirement for review by the Historic Landmarks Commission.

There was no one present from the public wishing to comment on the initial study at the environmental hearing on February 19, 2009. The following comments regarding the Draft Initial Study/Mitigated Negative Declaration were provided by the Planning Commission.

1. **Comment:** Concern was expressed that there is a potential inconsistency with the Noise Element policies by placing outdoor living space in areas in excess of 65 dBA.

Response: A review of the City's Noise Contour Map indicates that the project is located in an area in which the noise level exceeds 65 dBA L_{dn} (average A-weighted sound level over a 24-hour day). The noise level mapped for the site ranges from 65 to over 70 dBA. The environmental threshold for residential noise impacts are: 75 dBA for exterior noise levels, and 45 dBA for interior noise levels. A noise report prepared for the site indicated that all outdoor living areas would have levels of approximately 72 dBA L_{dn} if no mitigation was implemented. This ambient level is below 75 dBA L_{dn}, the noise level that the Noise Element indicates is clearly unacceptable and would make the outdoor environment intolerable for normal residential use. According to the noise report, the proposed residential units would achieve a maximum interior noise level of 45 dBA L_{dn} or less with special design measures used to insulate the buildings and by keeping windows closed. With the implementation of the design measures, Alternatives 1 and 2 would have less than significant noise impacts.

Comment: The physical site constraints relative to the property size should be discussed in order to make the findings for the modifications. Under land use compatibility discussion, would like to see documentation, such as a table, that shows all similar encroachments in the neighborhood with further clarification whether the structure(s) is (are) non-conforming or a modification was granted for comparative basis.

Response: The Planning Commission will consider the modification requests to allow encroachments into the setbacks as part of the proposed project. Modifications are allowed by the Zoning Ordinance and it is not an environmental issue. The requested data has been provided as an attachment to the April 16, 2009 staff report.

2. **Comment:** From visiting the project site, a Commissioner could see why the subject property on its own may not contribute enough significant historic attributes to be considered part of a proposed historic district. However, the General Plan update (PlanSB) may consider preserving the 1-2 story appearance of the neighborhood as a whole due to its proximity of potential inclusion in a historic district. The archival preservation, therefore, should further provide information on how this site relates to the potential historic neighborhood.

Response: The historic structures report for this site discusses the property's history, its relationship to the neighborhood, and the Waterfront Historic District survey that was done. The recommended mitigations in the report include documentation of the existing building and its setting with relation to the neighborhood. The waterfront survey was started several years ago, however, the data from the survey has not been finalized. At this time, there is no anticipated date of such a recommendation moving forward to City Council for acceptance and designation of the area as a historic district.

3. **Comment:** Would like clarification as to why the cultural resource mitigation did not include a requirement to incorporate architectural elements of the demolished building into the proposed structure.

Response: The historic structures report, on page 34, includes advisory recommendations (Option 2 in the report) which include the preservation of the building's façade and building the new development to the rear of the existing development. However, the Historic Landmarks Commission did not make this a required mitigation when they accepted the report.

4. **Comment:** Since this site is not a suburban creek area, does not see need to constrain the landscape architect to adhere to completely native landscaping.

Response: The comment has been noted and the recommended mitigation was revised to reflect this comment.

CONCLUSION

The environmental analysis demonstrates that, with the identified mitigation measures agreed to by the applicant, the project as proposed would not result in significant environmental impacts. The project therefore qualifies for a Mitigated Negative Declaration and no further analysis of alternatives is required as part of the environmental document. However, comments regarding the merits of the project, design alternatives, land use compatibility with surrounding residential uses and other planning issues are forwarded to decision-makers in the context of their consideration of project permits and planning policy consistency.

- Attachments: 1. Notice
2. Public Comments Letters (1 & 2)