

**MARIPOSA-UTAH STREET NEIGHBORHOOD ASSOCIATION
550 UTAH ST.
SAN FRANCISCO, CA 94110**

September 30, 2013

Re: Proposed Development at 480 Potrero: Appeal of Planning Commission Motion 18944, 2011.0430E
Mitigated Negative Declaration.

Honorable Members of the Board of Supervisors:

The Mariposa-Utah Street Neighborhood Association respectfully requests that you grant its appeal of the Planning Department approval of the Mitigated Negative Declaration for the above-referenced project on the basis that the project as currently approved violates the California Environmental Quality Act and the City and County of San Francisco Planning Code. The basis of the appeal are set out in greater detail below and supported by the attached documents.

PMND upon which the MND was approved inaccurately describes the site existing condition in violation of CEQA and the exemption granted by the Planning Commission improperly refused to consider adverse parking impacts.

The City's CEQA exemption determination improperly dismisses parking impacts. This ignores the substantial parking that has been provided on the project site, which must be considered to avoid a misleading impact review that minimizes impacts of the project. The elimination of existing parking spaces has been held by the First District to be an environmental impact that, when significant triggers, preparation of an EIR. *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1003 (referring to various impacts of a project that triggered the requirement for an EIR, including "the elimination of on street parking on "B" Street and Center Street, aggravating present parking problems that already exist in the area"). Also, given that the lot was used for parking when the CEQA process started, the City cannot rely on the elimination of parking during the CEQA review as a basis for not evaluating this impact. This is the same type of misleading baseline that was rejected by the court in *Save Our Peninsula v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, where the water usage on a site was increased during the CEQA process, and the court held that use of the increased water use baseline resulted in a misleading environmental analysis. The City's CEQA review needs to focus on the real conditions on the ground, and that includes the elimination of the substantial parking that has been provided on this site. This is a potentially significant project specific impact that must be evaluated.

The City's exemption determination violates CEQA because it ignores the Verdi Club (a register eligible resource) and includes no analysis of mitigation measures to ensure significant impacts are avoided.

The City's exemption determination ignores the historic property that abuts the lot, and includes no analysis or mitigation measures to ensure that significant impacts are avoided. The Verdi Club abuts the site, would be affected by the construction, and has been determined eligible for listing – as admitted at the hearings. The City determined in 2011 that the Verdi Club was eligible for the California Register under Criterion 1 and 3. Under CEQA Guideline 15064.5, this property must be considered a historic resource for CEQA purposes. Impacts on this building were not evaluated in the Eastern Neighborhoods EIR, so the City's CEQA review for this project cannot simply ignore potential impacts on the Verdi Club. Those impacts are a project-specific impact of this project that must be evaluated.

The proponent also failed to submit a geotechnical report for the current project, rather they allowed the proponent to simply change the date on a report prepared in 2004 for a different and much smaller project. The Staff response to comments admits no project specific geotechnical report and then states the project will not result in any meaningful change in the topography of the site and there will be no piles. They ignore what is stated elsewhere that the project will require an excavation 16 feet in depth. All of this work is being done immediately adjacent to the Verdi Club. Again a report should be required to analyze of potential impact to the adjacent Verdi Club a recognized historical resource under the California Historic Preservation Act.

The project was not properly noticed. Specifically proper notice to the impacted community, specifically the residents of the 50 plus-units at Mariposa Gardens an Environmental Justice community was not made and proper site signage was not maintained prior to the hearing on the PMND.

No health risk assessment was required or completed before approval of the MND.

No analysis or even mention of the sensitive receptors (children attending classes at the adjacent Verdi Club, the large number of elderly using the Club and young children at the Mariposa Housing Development) in discussing the risk of exposure to asbestos and other chemicals admittedly on the project nor of noise impact of the project. The staff points to the EIR for the Eastern Neighbor Hoods which does not deal with sites where sensitive receptors are known to exist. Also the staff contends “no long term exposure to toxics” exists without discussing the risks of even short term exposure to these sensitive receptors. The proponent should be required to prepare a health risk assessment of the potential impacts of construction in serpentine rock containing high levels of asbestos in close proximity to the Verdi Club and Mariposa Gardens.

No contemporaneous Phase I ESA report was prepared or available to the public before the PMND was issued.

The only Phase I document submitted was admitted by the staff to be over 13 years old. Staff concludes this is sufficient without any information on impacts on the site for over a decade could be ignored. Instead the staff dismisses the need for a Phase I saying the Health Department will deal with it later. This precludes the public’s right to have this issue addressed as part of the environmental review.

The project sponsor and Planning Department failed to provide noticed of the proposed development to Down Town High School which is located within a quarter mile of the proposed project. (California Code of Regulations – CCR Title 14: Guidelines §15186).

The Planning Dept. staff admitted at the Planning Commission hearing that no such notice was undertaken and provided no legal justification for the failure to provide notice.

The Planning Commission denied the appellants right to due process by considering its comments as public comments, rather than providing the appellant the required equal opportunity (15 minutes to present a case) as was provided to the proponent and Planning Department Staff.

The proposed project is completely out of character with the surrounding neighborhood and violates Planning Code Section 101.1(b).

The building will be at least 4 stories taller than any building along 10th street and Potrero between 10th and Mission Streets and the new General Hospital, and is completely out of character with any structures on the entire length of Potrero.). Staff provided no site specific justification for ignoring this concern, or explaining why an exemption should have been granted.

The PMND approved by the Planning Commission ignores a shadow study showing violation of Planning Code Section 147 and 295 and there is no requirement to mitigate the negative shadow impacts of the project.

The initial shadow analysis demonstrated the building would cast shadows on Franklin Square Park. Without redesign of the building, the Planning Department merely lowered the scale of measurement to generate a "No Impact Memorandum" for the case files and citation in the PMDN. The original "Impact Memorandum" was only made available after repeated requests under the SF Sunshine Ordinance (Public Records Act) for the complete case files. No explanation has been given by the Planning Department Staff as to why they failed even mention the initial study in the PMND or on request by appellants.

**Jean Bogiages, MUNA Chair
550 Utah St., SF 94110**

**Juan Jayo, MUNA Steering Committee
530 Utah Street, SF 94110**

Appendix A – Supporting Material

- a. Neighborhood Character 101.1(b)(2) and Mission Plan Policy 1.2.1 “Ensure that infill housing is compatible with its surroundings “. The proposed 6 story 73ft (in a 58ft zone) building is not compatible with the lower height mostly Victorian homes. Green space is inadequate.**

A walk from 24th to 16th street west side counts approximately:

Type	1 story	2 stories	3 stories	4 stories
commercial	9	9	1	0
residential	23	50	14	0

Note: bottom floor garage not counted as a story



Mariposa Gardens, low income housing provides green space and is no higher than 3 stories. It also provides parking and green open space created by a large setback from the sidewalk and an interior courtyard..



2-3 story homes on Potrero

2 story houses in RH-2 Utah

4 story apartment on Hampshire and more parking on street

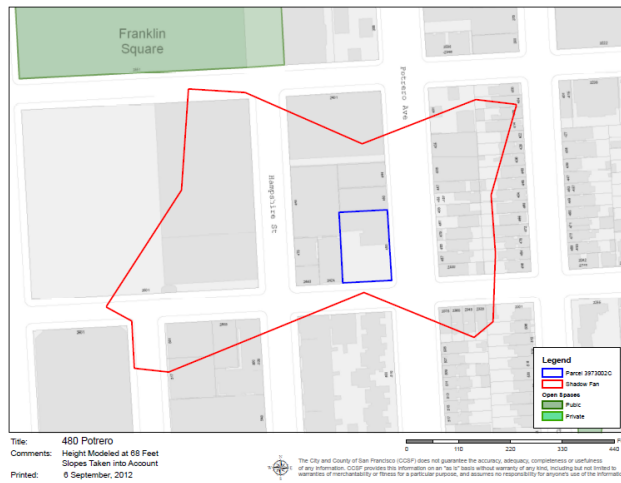
2 story homes Verdi Club

2 story houses in RH-2 Utah

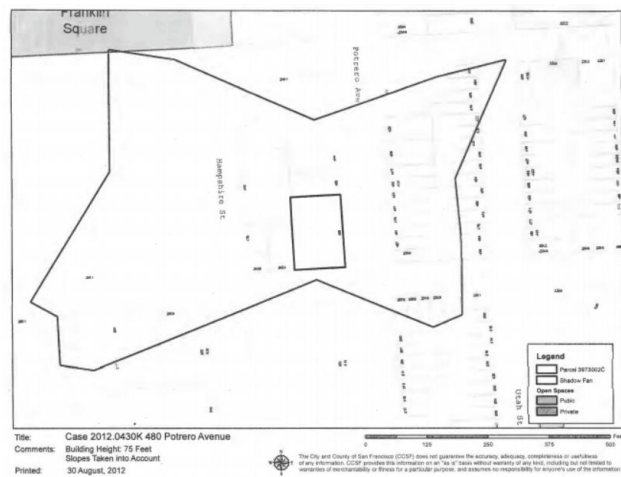
2-3 story homes in Mariposa Garden complex

2-3 story apartments on Potrero

- b. Shadow Analysis shows neighborhood gardens and potential solar panel locations shaded at 68ft height.



Original Shadow analysis at 75 feet, more accurately representing the shadow, failed so a smaller height was declared to redo the analysis. Consider that elevator shafts and stair cases can be up to 15 feet and if the roof is used as open space there needs to be a strong high fence to keep children from climbing off or throwing things onto the street below.



- c. Use as a parking lot has been discontinued and about 50 cars are now on the street parking. Potrero Streetscape changes promise to remove 79 more spaces from Potrero Avenue between 21st & 25th Streets. Additional residential properties are in the process of seeking approval in an area where parking is already a serious issue.



- d. **Verdi Club needs to be protected during construction. Sound analysis must include the existing land uses: entertainment and auto repair. Sound analysis must include recommendations for mitigation of event noise from the club. New tenants must be made aware of the noise if not mitigated.**

Residential, Commercial, and Civic Development: 1929-1945

During the Depression and World War II virtually no non-industrial buildings were erected within the Showplace Square survey area. One important exception is the Verdi Club – an Italian-American men’s social club – built in 1935 at 2424 Mariposa Street. Built of reinforced-concrete, the one-story, Art Deco-style commercial building is a rare example of a commercial building erected in the survey area during the period of significance. With its molded concrete “Mayan Deco” frieze, spandrel panels, and other ornament, it is an excellent example of the Art Deco style as well (Figure 45).

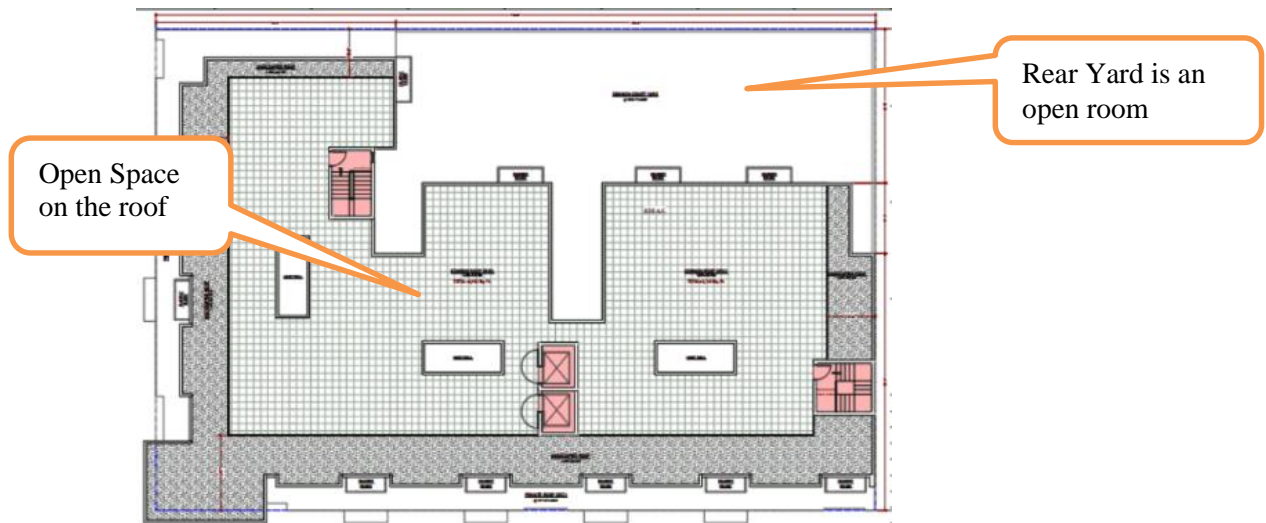


Figure 45. Verdi Club, 2424 Mariposa St.
Source: KVP Consulting

e. Open Space

Eastern Neighborhoods Community Planning, 2008, p 3: **“Open Space: In many areas, the amount of open space required as part of new development would be increased. Additionally these open spaces will be required to be greener and more usable”**

This project has proposed that open space be on the roof, in between elevator shaft stair cases and light wells. This concept actually adds height to the building which has a height limit of 58 ft. It is not green and is minimally usable.



Roof top open space – an attempt to satisfy the numbers, but not the intent of the Eastern Neighborhoods Plan. There is no “green” open space planned here.