File No. 130226 Committee Item No. 9
Board Item No. 10

COMMITTEE/BOARD OF SUPERVISORS

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Board of Supervisors Meeting **Date:** MAY 21, 2013

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Completed by: Victor Young **Date** May 10, 2013
Completed by: Victor Young **Date** 5/16/13

AMENDED IN COMMITTEE
5/15/13

FILE NO. 130226 ORDINANCE NO.

[Park Code - South of Market West Skatepark and Dog Park]

Ordinance amending the Park Code to designate portions of the property (Assessor's Block No. 3513, Lot Nos. 071 and 074) leased by the City and County of San Francisco from the State of California, immediately under and adjacent to the portions of the Central Freeway located between Otis and Stevenson Streets and between Valencia and Stevenson Streets and partially bounded by Duboce Avenue and referred to as "South of Market (SoMa) West Skatepark and Dog Park," as a "park" within the meaning of the Park Code and to authorize the Recreation and Park Department's Park Patrol to patrol those portions of the leased property; and making environmental findings, and findings of consistency with the General Plan.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Planning Department has determined that the actions contemplated in this ordinance are exempt from the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.) under CEQA Guidelines Section 15303 in Planning Department Case No. 2011.0645E. Said determination is on file with the Clerk of the Board of Supervisors in File No. 130226 and is incorporated herein by reference. The Board of Supervisors hereby adopts as its own this exemption determination and finds that the amendments set forth herein are within the scope of the exemption.

Section 2. The Planning Department in a letter dated March 6, 2013, found that the actions contemplated in this ordinance are, on balance, consistent with the City's General Plan and with Planning Code Section 101.1(b). The Board finds that the actions described herein are consistent with the City's General Plan and with Planning Code Section 101.1(b) for the reasons set forth in said letter. A copy of said letter is on file with the Clerk of the Board of Supervisors in File No.130226 and is incorporated herein by reference.

Section 3. The Board of Supervisors is considering two proposed resolutions to authorize the City to enter into two leases with the State of California, acting by and through its Department of Transportation, for the development and operation of a skatepark and a dog park referred to in the leases as the "SoMa West Skatepark and Dog Park," and for the operation of a parking area. A copy of the proposed resolutions and the leases are on file with the Clerk of the Board of Supervisors in File No. 130384 and File No. 130385.

Section 4. The San Francisco Park Code is hereby amended by amending Section 2.01 to read as follows:

SEC. 2.01. "PARK" DEFINED.

(a) When used in this Code, the word "park" shall mean and include all grounds, roadways, avenues, squares, recreation facilities, and other property placed under the control, management and direction of the Recreation and Park Commission by the Charter of the City and County of San Francisco, and the open space on the blocks bounded by Market, Folsom, Third and Fourth Streets which is under the control, management and direction of the Redevelopment Agency of the City and County of San Francisco, otherwise known as the "Yerba Buena Gardens," unless such word is otherwise defined within the section in which it appears.

(b) When used in Articles 3, 4 and 7 of this Code, the word "park" shall also include the area comprising Fulton Street between Hyde and Market Streets and Leavenworth Street between McAllister and Fulton Streets, which area was closed to vehicular traffic by San Francisco Board of Supervisors Resolution No. 373-73 and is otherwise known as United Nations Plaza, and the area that is bounded by the northwesterly line of Market Street, the southerly line of Eddy Street and the westerly line of Lot 13, Assessor's Block 341, and is otherwise known as Hallidie Plaza. The designation of United Nations Plaza and Hallidie Plaza as parks for purposes of Articles 3, 4 and 7 of this Code does not effect a jurisdictional transfer of these plazas, does not place these plazas under the jurisdiction and control of the Recreation and Park Commission and does not render these plazas "park land" or "park property" as those terms are used in any provision of the San Francisco Charter.

(c) When used in this Code, the word "park" also shall include portions of property owned by the State of California immediately under and adjacent to the portions of the Central Freeway located between Otis and Stevenson Streets and between Valencia and Stevenson Streets and partially bounded by Duboce Avenue referred to as "SoMa West Skatepark and Dog Park," to the extent such property is (1) leased by the City under leases with the State of California, acting by and through its Department of Transportation, authorized under San Francisco Board of Supervisors Resolution No. and Resolution No. , and (2) depicted in such leases as the "skatepark" and the "dog park." The word "park" shall not include the portion of the leased property depicted in such leases as the "parking area." In designating SoMa West Skatepark and Dog Park as a "park" for purposes of this Code, the Board of Supervisors does not intend to place the leased property under the jurisdiction and control of the Recreation and Park Commission within the meaning of Charter Section 4.113, dedicate any of the leased property as "park land" or "park property" as those terms are used in any provision of the San Francisco Charter, or impose this Code on the State of California or its employees, agents, or contractors while engaging in the course and scope of their employment on the leased property.

Rather, the intent is to authorize the Recreation and Park Department to manage the SoMa West Skatepark and Dog Park for the Real Estate Division for recreational use by the public and enforce the provisions of this Code on uses of the SoMa West Skatepark and Dog Park by the public, only while the leases referred to herein remain in effect.

Section 5. The San Francisco Park Code is hereby amended by amending Section 2.09, to read as follows:

SEC. 2.09. "PARK PATROL" DEFINED.

When used in this Code, the words "Park Patrol" refer to persons hired as employees of the Recreation and Park Department to patrol the areas under the jurisdiction of the Commission *or any other areas that the Recreation and Park Department is managing for recreational purposes.*

Section 6. Effective Date and Operative Date.

(a) This Ordinance shall become effective 30 days from the date of passage.

(b) This Ordinance shall become operative only upon approval by the Board of Supervisors of the resolutions referenced in Section ~~2~~ 3 of this Ordinance on file with the Clerk of the Board of Supervisors in File No. 130384 and File No. 130385.

Section 7. This section is uncodified. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Park Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
FRANCESCA GESSNER
Deputy City Attorney
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FILE NO. 130226

LEGISLATIVE DIGEST

[Park Code - South of Market West Skatepark and Dog Park]

Ordinance amending the Park Code to designate portions of the property (Assessor's Block No. 3513, Lot Nos. 071 and 074) leased by the City and County of San Francisco from the State of California, immediately under and adjacent to the portions of the Central Freeway located between Otis and Stevenson Streets and between Valencia and Stevenson Streets and partially bounded by Duboce Avenue and referred to as "SoMa West Skatepark and Dog Park," as a "park" within the meaning of the Park Code and to authorize the Recreation and Park Department's Park Patrol to patrol those portions of the leased property; and making environmental findings, and findings of consistency with the General Plan.

Existing Law

Park Code Section 2.01 defines a "park" for purposes of the Park Code to include properties under the jurisdiction of the Recreation and Park Commission, as well as Yerba Buena Gardens, United Nations Plaza and Hallidie Plaza.

Park Code Section 2.09 defines "park patrol" to mean employees of the Recreation and Park Commission hired to patrol areas under the jurisdiction of the Recreation and Park Commission.

Amendments to Current Law

The ordinance would amend Section 2.01 of the Park Code to designate portions of the property (Lots 071 and 074, Block 3513) leased by the City from the State of California immediately under and adjacent to the portions of the Central Freeway located between Otis and Stevenson Streets and between Valencia and Stevenson Streets and partially bounded by Duboce Avenue and referred to as "SoMa West Skatepark and Dog Park," as a "park" within the meaning of the Park Code to allow the Recreation and Park Department ("RPD") to manage the SoMa West Skatepark and Dog Park and enforce Park Code provisions thereon while the leases are in effect.

The ordinance also would amend Section 2.09 of the Park Code to authorize RPD Park Patrol to patrol the "SoMa West Skatepark and Dog Park," as well as any other areas that RPD is managing for recreational purposes.

Background Information

The Board of Supervisors is considering two proposed resolutions to authorize the City to enter into two leases with twenty-year terms with the State of California, acting by and through its Department of Transportation, for the development and operation of a skatepark and a dog park referred to in the leases as the "SoMa West Skatepark and Dog Park," and for the operation of a parking area. This ordinance would become operative only upon approval by the Board of Supervisors of the two proposed lease resolutions. The City plans to operate and maintain the leased property through an interdepartmental Memorandum of Understanding ("MOU") by and among the Real Estate Division of the General Services Agency, the Department of Public Works, RPD, and the Office of Economic and Workforce Development. Pursuant to the MOU, RPD will operate and maintain the SoMa West Skatepark and Dog Park only while the leases are in effect.

This ordinance makes clear that in designating SoMa West Skatepark and Dog Park as a "park" for purposes of the Park Code, the Board of Supervisors does not intend to place the leased property under the jurisdiction and control of the Recreation and Park Commission within the meaning of Charter Section 4.113, dedicate any of the leased property as "park land" or "park property" as those terms are used in any provision of the San Francisco Charter, or impose the Park Code on the State of California or its employees, agents, or contractors while engaging in the course and scope of their employment on the leased property. The purpose of the ordinance is to allow RPD to manage the SoMa West Skatepark and Dog Park and authorize Park Patrol to patrol the property, only while the leases are in effect.

Items 9, 10 and 11 Files 13-0226, 13-0384 and 13-0385	Departments: Real Estate Division (RED) Department of Public Works Recreation and Park Department (RPD) Office of Economic and Workforce Development (OEWD)

EXECUTIVE SUMMARY

Legislative Objective

- File 13-0226: The proposed ordinance would (a) amend the Park Code to designate portions of Assessor Block 3513, Lots 071 and 074 leased by the City from the State for the South of Market West Skatepark and Dog Park as a "park", (b) authorize RPD to patrol this leased property, and (c) make environmental findings and consistency with the City's General Plan.

- File 13-0384: The proposed resolution would (a) approve execution of an airspace lease between the City and the State of California (Caltrans) for a portion of property on Duboce Street between Otis and Stevenson Streets (Assessor Block 3513, Lot 071), for use as a skatepark for an initial 20 years and an initial $10,000 monthly rent, (b) adopt environmental findings and other findings consistent with the City's General Plan and eight priority policies, and (c) authorize other actions.

- File 13-0385: The proposed resolution would (a) approve execution of an airspace lease between the City and the State of California (Caltrans) for a portion of property on Duboce Street between Valencia and Stevenson Streets (Assessor Block 3513, Lot 074), for an initial 20 years and a total rent of $2,335,343, (b) adopt environmental findings and other findings consistent with the City's General Plan and eight priority policies, and (c) authorize other actions.

Fiscal Impacts

- Under the proposed initial 20-year lease for the skatepark (File 13-0384), the City would pay Caltrans $10,000 per month, $120,000 in FY 2013-14, increasing 2% annually, for a total 20-year cost of $2,963,596. For the Dog Park (File 13-0385), the City would pay Caltrans a one-time total of $2,335,343 upfront for the entire 20-year initial term of the lease.

- DPW staff designed the Dog Park and related parking areas and retained a private design firm, for the skatepark at a cost of $120,000. The cost to construct (a) the skatepark is approximately $1.7 million and (b) the dog park and related parking area is approximately $1.1 million, for a total of approximately $2.8 million.

- All skatepark and dog park costs would be funded from the Octavia Boulevard Special Fund, which has an available balance of approximately $17 million. Revenues of $91,080 annually from Dog Park parking would accrue to the Octavia Boulevard Special Fund, to partially offset lease and maintenance costs for both parks. RPD estimates annual maintenance costs of $85,000 for both parks.

Recommendation

- Approve the two proposed resolutions.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

Under Administrative Code Section 23.27, leases with a term of more than one year or rent of more than $5,000 per month, in which the City is the tenant, are subject to the Board of Supervisors approval, by resolution.

Background

In 1989, the Central Freeway, located above Octavia Boulevard, was severely damaged by the Loma Prieta earthquake, resulting in the State of California, through its Department of Transportation (Caltrans) to demolish the Central Freeway north of Market Street. On May 22, 2000, the Board of Supervisors approved a Cooperative Agreement between the City and Caltrans to transfer 22 Caltrans parcels that became available from the demolition of the Central Freeway from the State to the City at no cost to the City (Resolution 469-00), in accordance with Section 72.1 of the California Streets and Highways Code. This Cooperative Agreement also specified that the City's future proceeds from the sale or lease of these excess Central Freeway parcels would be used for transportation and related purposes.

In November of 1999, San Francisco voters approved Proposition I, which required the City to (a) use the proceeds from the sale or lease of these Central Freeway parcels to develop an Octavia Boulevard Plan, (b) use any remaining proceeds from the sale or lease of excess Central Freeway parcels for transportation improvements to corridors on or ancillary to Octavia Boulevard, and (c) directed the San Francisco County Transportation Authority (SFCTA) to allocate such remaining proceeds for transportation improvements with advice from its Central Freeway Citizens Advisory Committee. On February 28, 2006, the SFCTA adopted the Central Freeway Replacement Project Ancillary Project Study, which identified various transportation and related ancillary projects (South of Market (SoMa) West Improvement Projects) at an estimated cost of $5,400,000, to be funded with an estimated $5,750,000 of remaining proceeds from the sale or lease of the Central Freeway parcels. One of these SoMa West Improvement Projects specified the development of recreational uses under a portion of the Central Freeway that was restored by the State.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution (File 13-0384) would (a) approve the execution of an airspace lease[1] between the City and County of San Francisco, as lessee and the State of California, acting by and through its Department of Transportation (Caltrans) as lessor, for a portion of property on Duboce Street between Otis and Stevenson Streets (Lot 071, Block 3513), for an initial 20 years, at an initial $10,000 monthly rent for use as a public skatepark and recreational area, (b) adopt environmental findings and other findings consistent with the City's General Plan and eight priority policies, and (c) authorize other actions.

[1] Although the proposed resolution identifies the subject lease as an airspace lease, the subject lease is actually a lease for occupancy and use of the ground located directly under State Highway.

The proposed resolution (File 13-0385) would (a) approve execution of a second airspace lease[2] between the City and County of San Francisco as lessee, and the State of California, acting by and through its Department of Transportation (Caltrans) as lessor, for a portion of property on Duboce Street between Valencia and Stevenson Streets (Lot 074, Block 3513), for an initial 20 years for a total rent of $2,335,343 for use as a public dog park and recreational area, (b) adopt environmental findings and other findings consistent with the City's General Plan and eight priority policies, and (c) authorize other actions.

The proposed ordinance (File 13-0226) would (a) amend the Park Code to designate portions of Assessor Block 3513, Lots 071 and 074 to be leased by the City from the State for the subject Skatepark and Dog Park as a "park", (b) authorize RPD to patrol this leased property, and (c) make environmental findings and consistency with the City's General Plan.

According to Mr. John Updike, the Director of Real Estate, the two proposed leases with Caltrans are similar, except for the specific locations, square footage, proposed uses of the parcels and structured rent payments. The proposed lease (File 13-0384) on Duboce Street between Otis and Stevenson Streets would be used as a skatepark and the proposed lease (File 13-0385) on Duboce Street between Valencia and Stevenson Streets would be used as a dog park, including parking. The two leases are on adjacent parcels directly under U.S. Highway 101. Table 1 below summarizes the major provisions in each of the two proposed leases.

Table 1: Summary of Proposed Lease Terms for Skate Park and Dog Park

Provisions	Skate Park (File 13-0384)	Dogpark and Parking (File 13-0385)
Location	Duboce Street between Otis and Stevenson Streets	Duboce Street between Valencia and Stevenson Streets
Initial Term	20 years (July 1, 2013 - June 30, 2033)	20 years (July 1, 2013 - June 30, 2033)
Options to Extend	One option for ten years Negotiated fair market rate	One option for ten years Negotiated fair market rate
Square feet	16,910 square feet	28,026 square feet
Rent per square foot per month-first year	Approximately $0.59	Approximately $0.35
Monthly Rent-first year	$10,000	NA
Annual rent-first year	$120,000	NA $2,335,343 Total
Annual rent escalation	2%	NA
Insurance	$25 Million self-insurance by City	$25 Million self-insurance by City

[2] Although the proposed resolution identifies the subject lease as an airspace lease, the subject lease is actually a lease for occupancy and use of the ground located directly under State Highway.

As shown in Table 1 above, both of the proposed leases require the City to provide $25 million of insurance to the State, which can be satisfied through the delivery of a certificate of self-insurance, which results in no direct cost to the City. In addition, the proposed leases provide that the City would indemnify, hold harmless and defend the State against any and all claims, actions, damages and liability incurred as a result of any acts or omissions by the City under the subject lease or any allegedly dangerous condition of public property based on the condition of the property, excluding those incurred as a result of the highway structure or activities by the State.

Both of the subject State Caltrans properties to be leased by the City are currently used for surface vehicle parking. Mr. Updike notes that the proposed skatepark site currently has 79 parking spaces, with 41 of these spaces leased by Caltrans, through a parking management company, to the City's Human Services Agency (HSA) for City and employee vehicles, at a monthly cost of $165 per space, which totals $6,765 per month, or $81,180 annually. The proposed dog park site currently has 70 parking spaces, with 50 of these spaces leased by Caltrans, through a parking management company, to HSA for City and employee vehicles, at a monthly cost of $165 per space, which totals $8,250 per month, or $99,000 annually. Mr. Updike advises that all of the parking will be eliminated during construction of the skatepark and dog park, with HSA vehicles relocated to available parking facilities at 246 South Van Ness, and garages at 1660 and 1650 Mission Streets. Construction of the dog park improvements will include parking spaces for 46 vehicles used by HSA employees.

Under the two subject leases with Caltrans, the City is required to obtain encroachment permits from the State, in order to construct and install the proposed skatepark and dog park improvements. According to Mr. Frank Felice, Project Manager with the Department of Public Works (DPW), DPW has applied for the necessary encroachment permits from the State for the proposed construction. Mr. Felice anticipates that the encroachment permits will be approved with the execution of the subject leases with the State.

The two proposed resolutions and leases anticipate that an Interdepartmental Memorandum of Understanding (MOU) would be entered into at the same time as the commencement of the lease on approximately July 1, 2013 among (a) the Real Estate Division of the General Services Agency, (b) the Department of Public Works (DPW), (c) the Recreation and Park Department (RPD) and (d) the Office of Economic and Workforce Development (OEWD) to define the required design, installation, maintenance and operation of the subject Skatepark, Dog Park and Parking Area and the performance of the City overall under the subject leases. This Interdepartmental MOU, which would not be subject to Board of Supervisors approval, would specify that:

- DPW would be responsible for designing and installing the skatepark improvements, Dog Park improvements and Parking Area improvements;

- The Office of Economic and Workforce Development (OEWD) would be responsible for acting as liaison between Caltrans, DPW, RPD, and assisting in project management for the design and construction of the improvements.

- Real Estate would be responsible for legal jurisdiction of the two parcels, including financial accounting, all lease correspondence, and managing the Parking Area in the Dog Park; and

- RPD would be responsible for maintaining the Skatepark and Dog Park, including plantings, shrubs, trees, paths, benches, trash collection, skatepark fixtures, dog play fixtures, light fixtures, security and graffiti abatement.

On October 21, 2011, the Planning Department determined that the subject lease is exempt from environmental review under the California Environmental Quality Act (CEQA). In addition, on March 6, 2013, the Planning Department found that the proposed project is consistent with the City's General Plan.

FISCAL IMPACTS

Mr. Felice advises that DPW designed the Dog Park and related parking areas with existing DPW staff and retained Foothill, a private design firm, to assist in the design of the skatepark features at an estimated cost of $120,000. Mr. Felice estimates the cost to construct (a) the skatepark is approximately $1.7 million and (b) the dog park and related parking area is approximately $1.1 million, for a total of $2.8 million. According to Mr. Felice, the designs for both parks are now completed and DPW anticipates receiving construction bids for both parks by May 29, 2013, with the construction to extend for approximately seven months from late July 2013 until the Spring of 2014.

Under the proposed lease for the skatepark (File 13-0384), the City would pay Caltrans $10,000 per month, commencing approximately July 1, 2013, or $120,000 in FY 2013-14, increasing 2% annually as shown in Table 2 below over the initial 20-year period, for a total cost of $2,963,596.

Table 2: 20-Year Lease Payments for Skate Park (File 13-0384)

Fiscal Year	Monthly Rent	Annual Rent
July 1, 2013 – June 30, 2014	$10,000	$120,000
July 1, 2014 – June 30, 2015	10,404	124,848
July 1, 2015 – June 30, 2016	10,612	127,344
July 1, 2016 – June 30, 2017	10,824	129,888
July 1, 2017 – June 30, 2018	11,041	132,492
July 1, 2018 – June 30, 2019	11,262	135,144
July 1, 2019 – June 30, 2020	11,487	137,844
July 1, 2020 – June 30, 2021	11,717	140,604
July 1, 2021 – June 30, 2022	11,951	143,412
July 1, 2022 – June 30, 2023	12,190	146,280
July 1, 2023 – June 30, 2024	12,434	149,208
July 1, 2024 – June 30, 2025	12,682	152,184
July 1, 2025 – June 30, 2026	12,936	155,232
July 1, 2026 – June 30, 2027	13,195	158,340
July 1, 2027 – June 30, 2028	13,459	161,508
July 1, 2028 – June 30, 2029	13,728	164,736
July 1, 2029 – June 30, 2030	14,002	160,024
July 1, 2030 – June 30, 2031	14,282	171,384
July 1, 2031 – June 30, 2032	14,568	174,816
July 1, 2032 – June 30, 2033	14,859	178,308
Total		**$2,963,596**

Both of the proposed leases also contain one 10-year option to extend these leases from 2033 through 2043, subject to negotiation between the City and Caltrans, and subject to future Board of Supervisors approval.

All of the one-time planning, design and construction costs for both the skatepark and dog park as well as the ongoing rent and maintenance costs for the subject leases would be funded with revenues from the Octavia Boulevard Special Fund. In accordance with Section 10.100-369 of the City's Administrative Code, the Octavia Boulevard Special Fund was approved by the Board of Supervisors on December 5, 2003 (Ordinance 271-03) to accrue revenues from the sale or lease of the Central Freeway properties that would then be expended for construction and maintenance of Octavia Boulevard transportation and ancillary projects. In FY 2012-13, the Octavia Boulevard Special Fund had an available balance of approximately $17 million, which is anticipated to increase to approximately $31.5 million in FY 2013-14.

As shown in Table 1 above, under the proposed resolution for the Dog Park (File 13-0385), the City would pay Caltrans a one-time total of $2,335,343 upfront for the entire 20-year initial term of the lease. Mr. Updike notes that, given the current availability of funds in the Octavia Boulevard Special Fund, the City negotiated an upfront payment to Caltrans at a 3.25% discounted rate, after the calculation of a 2% annual escalator, for the Dog Park.

As noted above, under the proposed Interdepartmental MOU, the Real Estate Division will be responsible for financial accounting, all lease correspondence, and operating and maintaining the Parking Area in the Dog Park. Construction of the dog park improvements will include space for parking 46 vehicles. Mr. Updike advises that, similar to current practice, these 46 parking spaces will be leased to HSA at an estimated initial monthly cost of $165 per space, or a total of $7,590 per month and $91,080 annually. These parking revenues would be deposited back into the Octavia Boulevard Special Fund, to be used to fund the subject lease and related maintenance costs for both parks.

As noted above, under the proposed Interdepartmental MOU, RPD would be responsible for complying with all lease conditions and terms and maintaining the Skatepark and Dog Park. Mr. Nicholas Kinsey, Director of Property in the Recreation and Park Department (RPD) advises that RPD estimates that the cost to maintain both the skatepark and dog park will be approximately $85,000 annually. The Interdepartmental MOU provides funding of $66,000 per year increased by 2% annually from the Octavia Boulevard Fund for such purposes. The balance of approximately $19,000 ($85,000 - $66,000) annually would be required to come from RPD's annual operating budget, subject to appropriation approval by the Board of Supervisors.

However, under the proposed leases, the City, through RPD, would have the right to (a) sell beverages and food to users of the parks, (b) rent skateboard equipment and (c) charge a fee to use the skatepark or to take skateboarding lessons, if the revenues from such activities are used only to fund the City's payment of rent pursuant to this lease or to offset costs to make approved improvements or to perform its maintenance obligations under these two leases. Mr. Kinsey advises that as of the writing of this report, RPD does not have any specific plans for any additional activities at either park. Mr. Kinsey further advises that the proposed ordinance is being requested because the two subject parcels will not fall under the legal jurisdiction of RPD, as they will remain State property, being leased through the Division of Real Estate, such that the subject Park Code amendment is required.

RECOMMENDATION

Approve the two proposed resolutions and ordinance.

Miller, Alisa

From: John.Updike@sfgov.org
Sent: Friday, March 08, 2013 1:18 PM
To: Miller, Alisa
Subject: Re: Referral: BOS File No. 130226

Real Estate strongly supports this legislation as submitted.

john

John Updike, LEED AP O+M
Director of Real Estate
City & County of San Francisco
25 Van Ness, Suite 400
San Francisco, CA 94102
Voice: 415-554-9860
E-Mail: john.updike@sfgov.org

From: "Miller, Alisa" <alisa.miller@sfgov.org>
To: "Ginsburg, Phil" <phil.ginsburg@sfgov.org>, "Nuru, Mohammed" <mohammed.nuru@sfdpw.org>, "Rufo, Todd" <todd.rufo@sfgov.org>, "Updike, John" <john.updike@sfgov.org>,
Cc: "Ballard, Sarah" <sarah.ballard@sfgov.org>
Date: 03/08/2013 12:58 PM
Subject: Referral: BOS File No. 130226

Attached is a referral for BOS File No. 130226 (Park Code, SoMa West Skatepark & Dog Park), which is being referred to your department for informational purposes. If you have any comments or reports to be included with the file, please forward them to me.

Thank you.

Alisa Miller

Assistant Clerk
Board of Supervisors
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
(415) 554-4447 | (415) 554-7714 fax
alisa.miller@sfgov.org| www.sfbos.org

Complete a Board of Supervisors Customer Satisfaction form by clicking HERE.
[attachment "130226 FYI.pdf" deleted by John Updike/ADMSVC/SFGOV]

BOARD of SUPERVISORS

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March 8, 2013

File No. 130226

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On March 5, 2013, Supervisor Kim introduced the following proposed legislation:

File No. 130226

Ordinance amending the Park Code to designate portions of the property (Assessor's Block No. 3513, Lot Nos. 071 and 074) leased by the City and County of San Francisco from the State of California, immediately under and adjacent to the portions of the Central Freeway located between Otis and Stevenson Streets and between Valencia and Stevenson Streets and partially bounded by Duboce Avenue and referred to as "South of Market (SoMa) West Skatepark and Dog Park," as a "park" within the meaning of the Park Code and to authorize the Recreation and Park Department's Park Patrol to patrol those portions of the leased property; and making environmental findings, and findings of consistency with the General Plan.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board
Alisa Miller
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

Non-physical exemption
CEQA Section 15060 (c)(2)
3/25/13
JOY NAVARRETE
Note that the Central Freeway Parks Project was exempt class 3 under case 383 2011.0459E 6/27/11

SAN FRANCISCO
PLANNING DEPARTMENT

Certificate of Determination
EXEMPTION FROM ENVIRONMENTAL REVIEW

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Case No.:	2011.0645E
Project Title:	**Central Freeway Skate Park & Mini Park**
Zoning:	N/A (Caltrans Right-of-Way under Central Freeway)
Block/Lot:	N/A
Lot Size:	73,000 square feet
Project Sponsor	Frank Filice, Department of Public Works (DPW) (415) 558-4011
Staff Contact:	Kristina Zaccardelli – (415) 575-9036, Kristina.Zaccardelli@sfgov.org

PROJECT DESCRIPTION:

The proposed project would construct a new Skate Park and Mini-Park located within the Caltrans right-of-way under the Central Freeway, north of Duboce Avenue between Valencia and Stevenson Streets on an existing paved parking lot. The project proposes to construct a Skate Park and Mini-Park that includes basketball courts, play areas, a dog run, lighting, planting, and a pedestrian walkway. Skate Park construction activities would include: pavement demolition and removal; sewer manhole and catch basin relocation; new drainage connections; new concrete Skate Park paving, steps, walls, and ramps; a pier-supported concrete masonry unit wall; new column-mounted lighting; perimeter decorative fencing; and sidewalk repair and reconstruction.

(Continued on next page)

EXEMPT STATUS:

Categorical Exemption, Class 3 [State CEQA Guidelines Section 15303]

REMARKS:

See attached pages.

DETERMINATION:

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

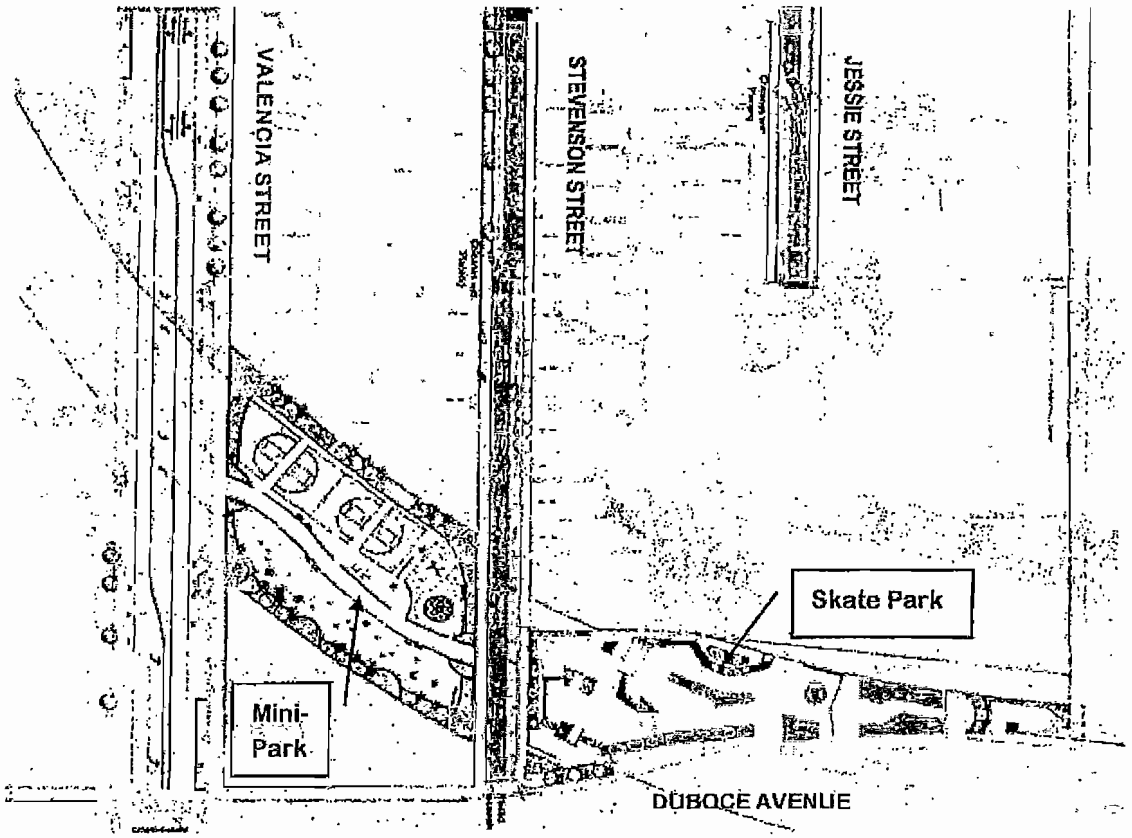
for

BILL WYCKO
Environmental Review Officer

10/21/2011
Date

cc: Frank Filice, Project Sponsor
V. Byrd, M.D.F
Bulletin Board

PROJECT DESCRIPTION (CONTINUED):



Mini-Park construction activities would include: pavement demolition and removal; sewer manhole and catch basin relocation; new drainage connections; poured-in-place concrete seatwalls; installation of play equipment; basketball court paving and standards; new decorative post lighting; site furnishings; a fenced dog run with landscape boulders; landscape planting and irrigation; and sidewalk repair and construction. The proposed project replaces 73,000 square feet of parking with an approximately 15,000 square foot skate park and 57,000 square foot park. The above figure shows the location of the skatepark and mini-park.

REMARKS:

Land Use

The 1.67 acre (73,000 square feet) project site is located within a fully developed area of San Francisco. The surrounding uses consist of commercial, industrial, and residential buildings. The project site is within a fully developed urban area that is completely covered with paved surfaces, and does not provide habitat for any rare or endangered plant or animal species.

Transportation

Most of the proposed project elements would improve site conditions and accessibility throughout the park. The new skate park and additional mini-park would result in additional trips to the park. Based on a traffic impact study for a 10,000 square foot skate park project at an existing recreational area in Los

Angeles County, it was found that many users of skatepark facilities walk or skate to the skatepark, while others were picked up or dropped off. The traffic impact study for that project concluded the project would be expected to increase vehicular transportation by 13 trips during the weekday PM peak hours.[1] Because the area is well-served by nearby Muni routes and greater density in the surrounding area than that for the skate park in LA County, the skatepark and mini-park would likely result in fewer than 13 trips during the weekday PM peak hour. The 14, 14L, and 49 lines run along the nearby segment of Mission Street and the F Market is nearby. However, the project would not generate any new transit trips. Therefore, given the minor amount of additional vehicular trips expected and the pedestrian improvements, the project would not result in any significant adverse transportation impacts.

Parking

The proposed project would replace an existing surface parking lot (73,000 square foot lot) with a new skatepark and mini-park. While the parking spaces would be removed and not replaced, the resulting parking deficit is considered to be a less-than-significant impact, regardless of the availability of on-street and off-street parking under existing conditions.

The Planning Code does not require on-street parking for the proposed project and the project does not include on-street parking. The project would not create any new parking demands. San Francisco does not consider parking supply as part of the permanent physical environment and therefore, does not consider changes in parking conditions to be environmental impacts as defined by CEQA.

Parking conditions are not static, as parking supply and demand varies from day to day, from day to night, from month to month, etc. Hence, the availability of parking spaces (or lack thereof) is not a permanent physical condition, but changes over time as people change their modes and patterns of travel.

Parking deficits are considered to be social effects, rather than impacts on the physical environment as defined by CEQA. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. Environmental documents should, however, address the secondary physical impacts that could be triggered by a social impact (CEQA Guidelines § 15131(a).) The social inconvenience of parking deficits, such as having to hunt for scarce parking spaces, is not an environmental impact, but there may be secondary physical environmental impacts, such as increased traffic congestion at intersections, air quality impacts, safety impacts, or noise impacts caused by congestion. In the experience of San Francisco transportation planners, however, the absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g., transit service, taxis, bicycles or travel by foot) and a relatively dense pattern of urban development, induces many drivers to seek and find alternative parking facilities, shift to other modes of travel, or change their overall travel habits. Any such resulting shifts to transit service in particular, would be in keeping with the City's "Transit First" policy. The City's Transit First Policy, established in the City's Charter Section 16.102 provides that "parking policies for areas well served by public transit shall be designed to encourage travel by public transportation and alternative transportation." The project area is well-served by local public transit which provide alternatives to auto travel.

[1] U.S. Army Corps of Engineers, Los Angeles District and City of Los Angeles, Department of Recreation and Parks, *Hansen Dam Skate Park, Joint Environmental Assessment, Initial Study/Mitigated Negative Declaration*, Los Angeles County, January 2011.

The transportation analysis accounts for potential secondary effects, such as cars circling and looking for a parking space in areas of limited parking supply, by assuming that all drivers would attempt to find parking at or near the project site and then seek parking farther away if convenient parking is unavailable. Moreover, the secondary effects of drivers searching for parking is typically offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area. Hence, any secondary environmental impacts which may result from a shortfall in parking in the vicinity of the proposed project would be minor, and the traffic assignments used in the transportation analysis, as well as in the associated air quality, noise and pedestrian safety analyses, reasonably addresses potential secondary effects.

Pedestrian and Bicycle Conditions

The proposed project would not generate new p.m. peak-hour pedestrian or bicycle trips. Pedestrian activity would likely increase as a result of the project but not to a degree that could not be accommodated on local sidewalks or would result in safety concerns. Currently, cars entering and exiting the lot from Valencia cross bike lanes. The construction of the skate park would improve bicycle safety conditions since no cars would be crossing over the bike lanes.

The proposed project would not result in a significant increase in the number vehicles in the project vicinity and would not substantially affect bicycle travel in the area. The project would not adversely impact pedestrian and bicycle conditions.

Additionally, the project would not impede traffic or cause unsafe conditions, and would not result in a significant impact related to access. The project would not generate loading demands. Off-street loading spaces are not required for the proposed project. In summary, the project would not result in a significant impact with regard to transportation.

Water Quality

The proposed project would not generate wastewater or result in discharges that would have the potential to degrade water quality or contaminate a public water supply. No expansion is being proposed and no further review is required. Project-related wastewater and storm water would flow to the City's combined sewer system and would be treated to standards contained in the City's National Pollutant Discharge Elimination System (NPDES) Permit for the Southeast Water Pollution Control Plant prior to discharge. Therefore, the proposed project would not result in significant water quality impacts.

Air Quality

Air quality impacts generally fall into two categories: impacts from project operations and impacts from project construction. The proposed project would include the construction of a mini-park as well as a skatepark. Therefore, the project would not include significant pollutant emission sources when completed. Thus, its operational emissions would be minimal and no further air quality analysis with respect to project operations is required.

Construction-related air quality impacts from the proposed project were analyzed based on the Bay Area Air Quality Management District's (BAAQMD's) *2011 CEQA Air Quality Guidelines* and thresholds of significance.[2] Construction of a mini park as well as a skate park would generate criteria air pollutants,

[2] BAAQMD, *California Environmental Quality Act Air Quality Guidelines*, updated May 2011. Available at http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES.aspx.

PM2.5,[3] and other toxic air contaminants resulting from the project's construction vehicles and equipment. A screening-level analysis was performed to determine whether the proposed project would require additional air quality analysis.[4] With respect to criteria air pollutant emissions, the proposed project would be well below the BAAQMD screening levels, and therefore quantitative analysis of criteria air pollutants is not required and the proposed project would not exceed the BAAQMD's criteria air pollutant thresholds of significance.[5]

The screening-level analysis identified the need for further analysis of the project's construction activities that emit PM2.5 emissions and other toxic air contaminants that may affect nearby sensitive receptors. Emissions from project-related construction activities were quantified in an air quality technical report in which both project construction and cumulative impacts were evaluated.[6] This memorandum found that construction-related activities would result in PM2.5 emissions and health risks well below BAAQMD CEQA significance threshold, as shown in Table 1.

Table 1 – Construction-related PM2.5 and Health Risk Emissions

	Excess Cancer Risk per One Million	Non-Cancer Chronic Hazard Index	PM2.5 concentration Mg/m3
Project Construction	2.6	0.006	0.03
BAAQMD Project Significance Thresholds	10	1.0	0.8

Cumulative air quality impacts were also analyzed taking into account other construction projects, stationary sources, and major roadways within the zone of influence defined by the BAAQMD CEQA guidance for analysis of air quality impacts. The estimated cumulative cancer risk (73 in one million), chronic noncancer Hazard Index (0.07), and PM2.5 concentration (0.66 mg/m3) are below the BAAQMD CEQA threshold of 100 in one million increased cancer risk, 10, and 0.8 mg/m3, respectively.[7] The proposed project would not result in a significant cumulative effect with respect to construction-related health risk.

Noise

Ambient noise levels in the vicinity of the project site are typical of noise levels in neighborhoods in San Francisco, which are dominated by vehicular traffic, including trucks, cars, Muni buses, emergency vehicles, and land use activities, such as commercial businesses and periodic temporary construction-related noise from nearby development, or street maintenance. Noises generated by future park uses are common and within the range of that which is generally accepted in urban areas and thus would not be

[3] PM2.5 = particles less than 2.5 micrometers in diameter.

[4] San Francisco Planning Department, *Air Quality Screening Analysis*, May 12, 2011 This report is available for review as part of Case No. 2011.0645E.

[5] BAAQMD, *CEQA Air Quality Guidelines*, updated May 2011. Table 3-1.

[6] Environ, *Project and Cumulative Health Risk Assessment, Skatepark/Mini-Park under the Central Freeway, San Francisco, California*, September 13, 2011. This report is available for review as part of Case No. 2011.0645E.

[7] Environ, *Project and Cumulative Health Risk Assessment, Skatepark/Mini-Park under the Central Freeway, San Francisco, California*, September 13, 2011. This report is available for review as part of Case No. 2011.0645E.

considered a significant impact of the proposed project. An approximate doubling of traffic volumes in the area would be necessary to produce an increase in ambient noise levels noticeable to most people. The project would not cause a doubling in traffic volumes and therefore would not cause a noticeable increase in the ambient noise level in the project vicinity. The nearest residential use is approximately five feet away from the project site. The proposed construction could generate noise that may be considered an annoyance by occupants of nearby properties. Construction noise is regulated under Article 29 of the City's Police Code, and would be temporary and intermittent in nature. Considering the above discussion, the proposed project would not result in a significant impact with regard to noise.

The Environmental Protection Element of the San Francisco General Plan contains Land Use Compatibility for Noise.[8] These guidelines, which are similar to but differ somewhat from state guidelines promulgated by the Governor's Office of Planning and Research, indicate maximum acceptable noise levels for various newly developed land uses. The guidelines indicate that for playgrounds and parks should be discouraged at noise level ranges from 68-77 dBA (Ldn). For sports areas and outdoor spectator sports, the guidelines discourage construction if the noise level ranges from 77 dBA (Ldn) and above.

Ambient traffic noise levels on Duboce (along the proposed Skate Park) are 75dBA or above. Despite having ambient traffic noise levels on adjacent streets within the range to discourage such uses, this impact would not have a significant impact as the open space would not attract visitors for extended periods of time or have overnight accommodations, and it would be reasonable from a health perspective to allow short-term park usage. Because the project would not be substantially affected by existing noise levels, the effect of this land use inconsistency with the General Plan would be considered less-than-significant.

Exempt Status

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 and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The proposed project includes the conversion of an existing empty lot to a skatepark and mini-park where only minor modifications are being made. Therefore, the proposed project would is exempt under Class 3.

Conclusion

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 will have a significant effect on the environment due to unusual circumstances. There are no unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant effect. The proposed project would have no significant environmental effects. Under the above-cited classifications, the proposed project is appropriately exempt from environmental review.

[8] City and County of San Francisco, Planning Department, San Francisco General Plan, Environmental Protection Element., Policy 11.1

SAN FRANCISCO
PLANNING DEPARTMENT

General Plan Referral

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Date:	March 6, 2013
Case No.	**Case No. 2011.0645R** **Phase II South of Market Ancillary Projects: Central Freeways Parks.**
Block/Lot No.:	3513/071, 3513/074
Project Sponsor:	Frank Filice SFDPW 875 Stevenson Street San Francisco, CA 94103
Applicant:	Same as Above
Staff Contact:	Amnon Ben-Pazi – (415) 575-9077 *Amnon.Ben-Pazi@sfgov.org*
Recommendation:	Finding the project, on balance, is **in conformity** with the General Plan
Recommended By:	John Rahaim, Director of Planning

PROJECT DESCRIPTION

The project is a lease and conversion of two lots owned by Caltrans into recreation facilities; a Mini-Park with basketball courts, play areas, a dog run, lighting and planting, and a Skate Park with skateboarding facilities, lighting and landscaping.

The submittal is for a General Plan Referral to recommend whether the Project is in conformity with the General Plan, pursuant to Section 4.105 of the Charter, and Section 2A.52 and 2A.53 of the Administrative Code.

SITE DESCRIPTION AND PRESENT USE

The project site consists of two separate lots located on either side of Stevenson Street, between McCoppin, Duboce, Mission and Valencia Streets, under the elevated Central Freeway. The lots are owned by Caltrans and currently used for automobile parking.

ENVIRONMENTAL REVIEW

On October 21, 2011, the Environmental Planning Section of the Planning Department determined that the proposed project is Categorically Exempt from Environmental Review under CEQA Class 3.

GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION

The project is, on balance, **in conformity** with the following Objectives and Policies of the General Plan:

MARKET AND OCTAVIA AREA PLAN

Objective 7.2: ESTABLISH A FUNCTIONAL, ATTRACTIVE AND WELL-INTEGRATED SYSTEM OF PUBLIC STREETS AND OPEN SPACES IN THE SOMA WEST AREA TO IMPROVE THE PUBLIC REALM.

The project site is within the SoMa West area, which is bounded by Market, 12th, Duboce and Valencia Streets. The proposed recreational facilities are well integrated with the adjacent streets, and their designs appear to be both functional and attractive. Sidewalks immediately adjacent to the project site under the elevated freeway structure often appear depopulated and forbidding. The mini-park and skatepark would provide recreational opportunities that are now unavailable in the immediate area, and are thus expected to generate additional foot-traffic and add visible activity and eyes-on-the-street, improving pedestrian comfort and perceived safety.

RECREATION AND OPEN SPACE ELEMENT

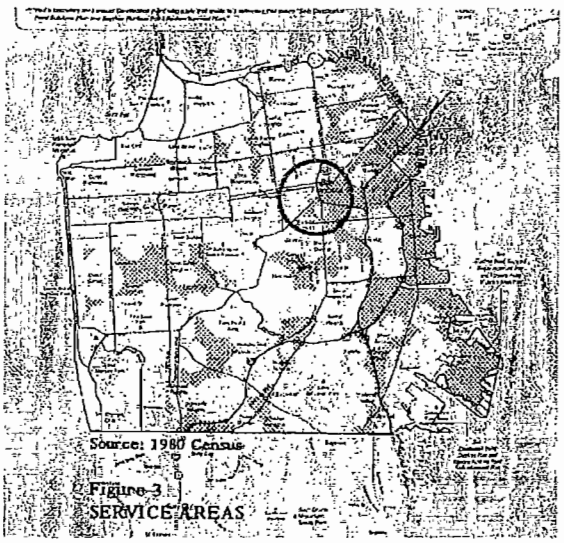
Objective 4: PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.

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.

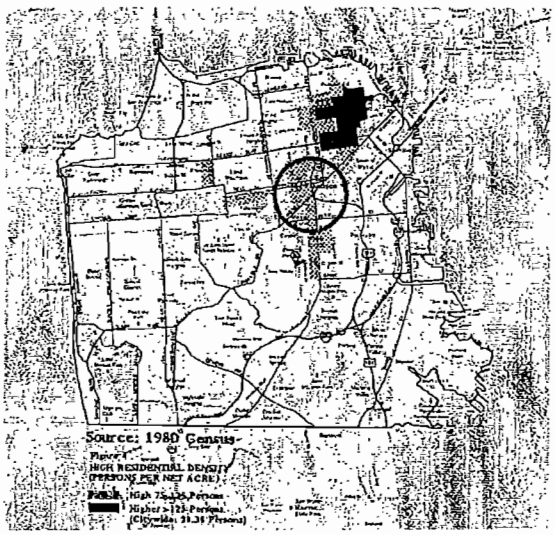
Figures 3 and 4 of Policy 4.4 show that the project site is in an under-served area with high residential density. Since the adoption of this policy the area surrounding the project site has been rezoned to allow increased residential density, but no new open space has been added in the immediate vicinity. The proposed recreational facilities would begin to address the deficiency in open space in the neighborhood.

Policy 4.4 Graphics

Figure 3 Needs Overlay



Residential Density Overlay



Policy 4.7: Provide open space to serve neighborhood commercial districts.

The project site is within an NCT-3 (moderate scale neighborhood commercial transit) district, centered on the Valencia and Mission Streets commercial corridors. The Mini-park is well integrated with the Valencia Street sidewalk and would provide a welcome link between businesses north and south of the elevated freeway. The Skatepark would provide activity and eyes-on-the-street along Duboce Street, and important pedestrian link between the Mission and Valencia commercial corridors.

RECOMMENDATION:	**Finding the Project, on balance, in-conformity with the General Plan**

SoMa West Dog Play Area & Skatepark

Budget Committee Board of Supervisors

May 15, 2013

Tamsen Drew, Project Manager

SAN FRANCISCO

Office of Economic and Workforce Development

Legislative Package

Lease Resolutions:

1) SoMa West Dog Play Area
2) SoMa West Skate Park

Park Code Ordinance: Extending Park Code onto the leased Caltrans parcels

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Office of Economic and Workforce Development

SoMa West Ancillary Projects:
Background

Octavia Boulevard Project: Endorsed by SF voters by Proposition I (1999), the State removed the Central Freeway north of Market Street. The State gave the City the 22 parcels beneath the freeway for free in exchange for the City:

- Constructing Octavia Boulevard
- Building the Ancillary Projects

Central Freeway Ancillary Projects: Provide public improvements in the vicinity of the Central Freeway/Octavia Boulevard to:

  - Enhance the public's experience with beautification and
  - Improve pedestrian safety

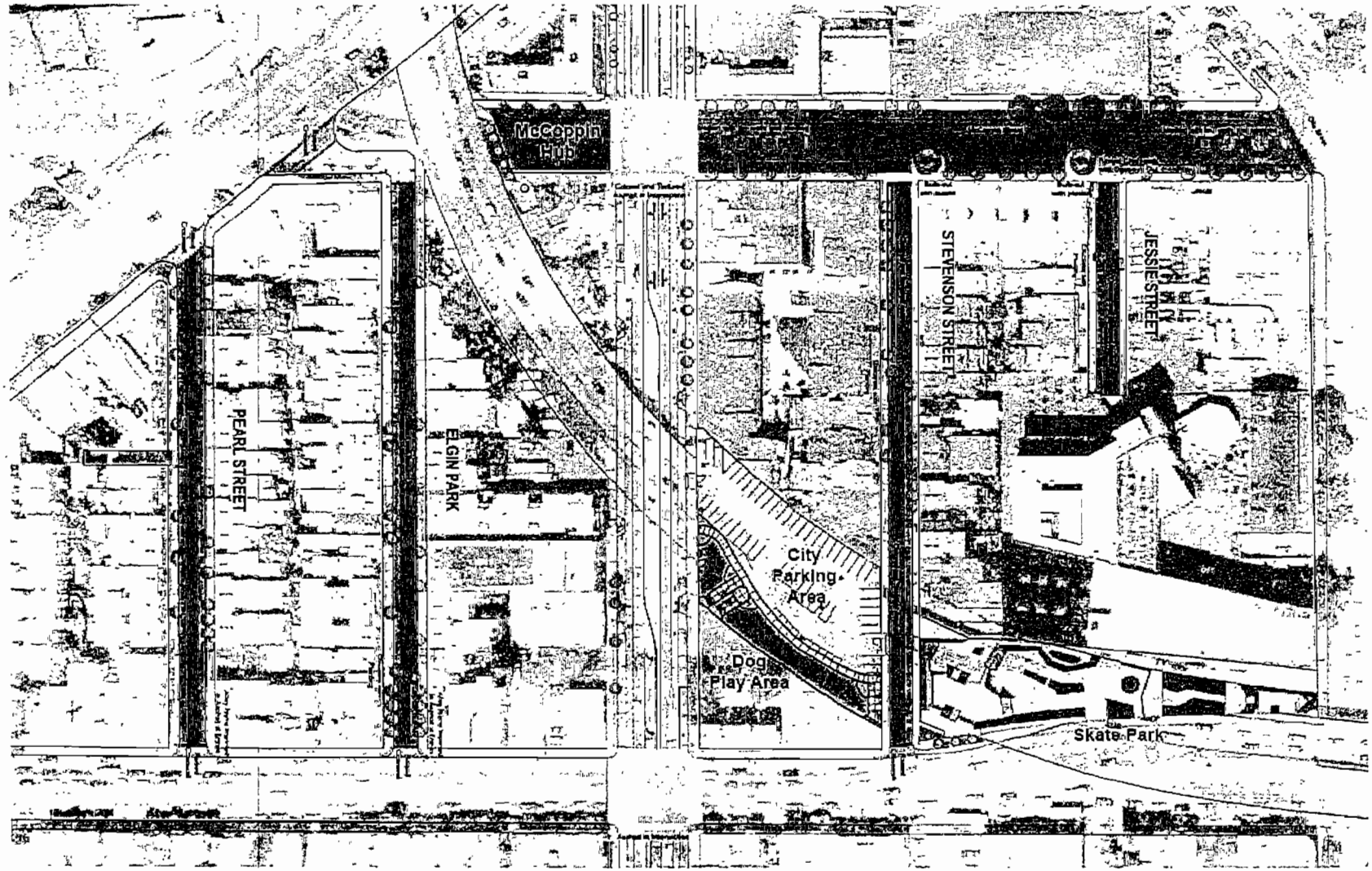
SFCTA Central Freeway Replacement Ancillary Project Study identifies and prioritizes the Ancillary Projects (2005)

SoMa West Ancillary Projects:
Background

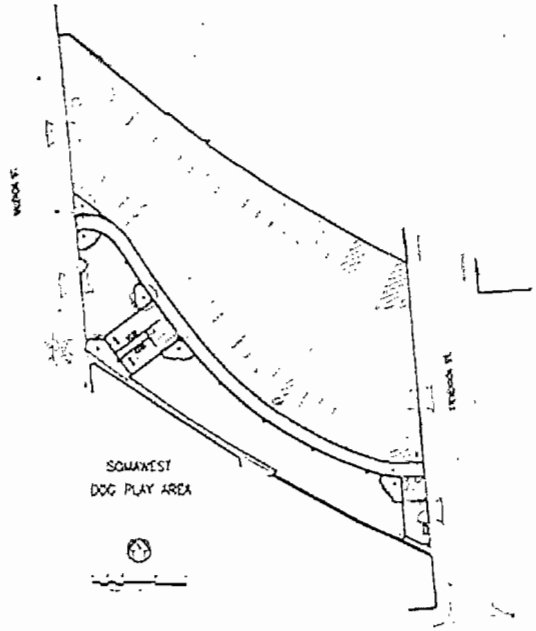
- **SFCTA Central Freeway Replacement Ancillary Project Study** identifies and prioritizes the Ancillary Projects (2005)

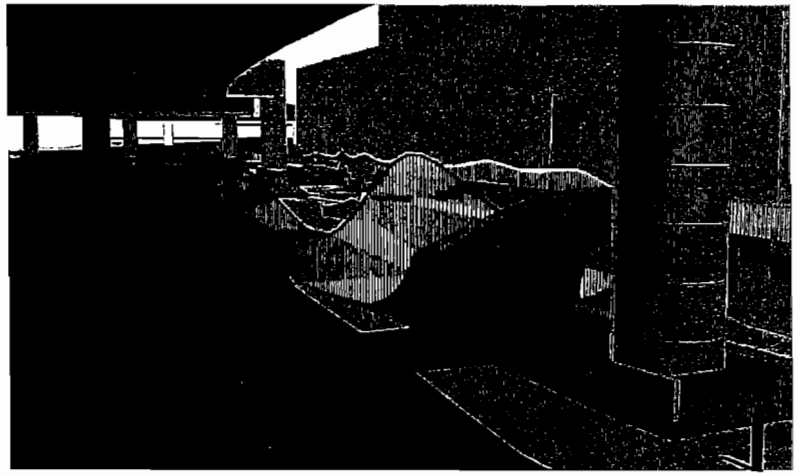
Completed Ancillary Projects	Remaining Ancillary Projects
McCoppin Streetscape Improvements	McCoppin Hub
Peal/Elgin Park Traffic Calming	Protected northbound bike left-turn signal at Valencia & McCoppin
Palms on Valencia to visually block freeway	CalTrans Right-of-Way Improvements (Dog Play Area & Skate Park)
Pedestrian-scaled lighting on Valencia around freeway	**Projects Not Pursued**
Bike Lanes on Market from 8th Street to Octavia Boulevard	Street Trees Phases I & II: Determination by DPW that there was no need for the project
13th Street Sidewalk ADA Improvements	

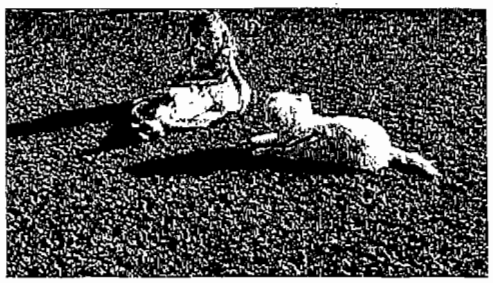
SoMa West *Dog Play Area & Skatepark*

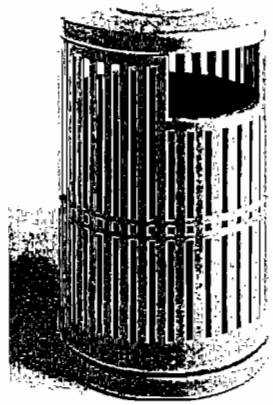


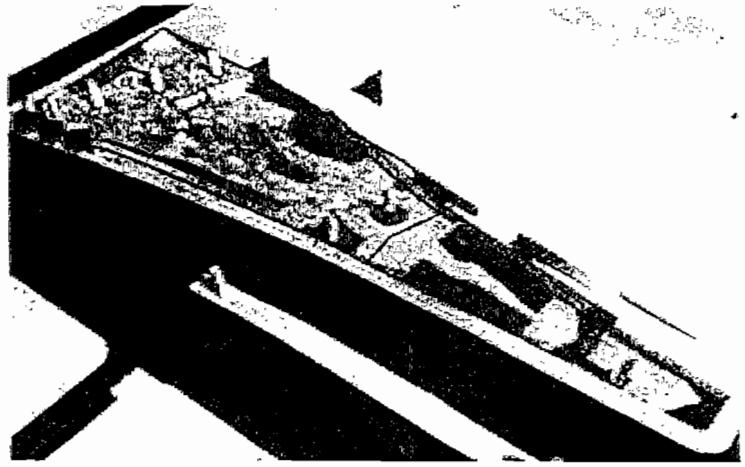
SoMa West *Dog Play Area & Skatepark*











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SoMa West *Caltrans Lease Terms*

	Skate Park	Dogpark and Parking
Location	Duboce between Otis & Stevenson Streets	Duboce between Valencia & Stevenson Streets
Initial Term	20 years (2013-2033)	
Options to Extend	One option for 10 years Negotiated fair market rate	
Square feet	16,910 square feet	28,026 square feet
Monthly Rent 1st year	10,000	N/A $2,335,343 Total
Annual rent 1st year	$120,000	N/A
Rent per sq/ft per month-first year	Approximately $0.59	Approximately $0.35
Annual rent escalation	2%	N/A
Insurance	$25 Million self-insurance by City	

SoMa West: Funding & Costs

	Skate Park	Dogpark and Parking
Funding Source	Octavia Boulevard Special Fund	
Capital Improvements	$1.7 million	$1.1 million
Park Maintenance & Operation	• Recreation and Park Department will operate and maintain park uses on both parcels. • Cost of maintenance is $85k/year, Octavia Boulevard Special Fund will provide $66k/year for 20 years to Rec & Park	
Parking Operations	N/A	Real Estate Department for City Car parking

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Schedule Moving Forward

- **Construction start:** Late July
- **Construction complete:** Spring 2014
- **Park spaces open:** March 2014

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Thank you & Questions

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