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9/11/15

PRC ONLY
— PCN15 074 —

From: Randy Miller <rmiller@nautilusgrp.com>
Sent: Wednesday, May 13, 2015 11:42 AM
To: Rivera, Mike
Cc: Merkamp, Robert; Brian Caruso; Joshua Morales
Subject: Re: 5100-5110 Telegraph Ave. Planning File:PLN15074. Project. Review of Incompleteness letter. Update on Pending Submittal Items: #14, #17 & #18

Hi Mike:

I'm sorry to be difficult, but I'm really struggling with your response below as I don't think you are addressing the issues directly. I will try to clarify our request and provide further background:

Financial Feasibility

We do not believe it is appropriate for staff to demand a financial feasibility report for this project because we have not requested any "incentive" or "concession" as these terms are defined in the code. You have directed us to Government Code Sections 65915-65918. The pertinent section is Section 65915(d)(1)(A) that provides that a City may reject an applicants request for a concession or incentive if it finds, "The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c)." As we are not requesting concessions or incentives, there is no economic determination or finding for the City to make.

You further reference Oakland Planning Code section 17.107.030. This section, in subsection B, requires an applicant to provide, "A project financial report (pro forma), as required justifying the granting of any incentive(s) and / or concession(s) in addition to the density bonus;" Again, as we are not requesting any incentive or concession in addition to the density bonus, we will not be providing a project pro forma.

Oakland Planning Code 17.107.030 (C) requires of the applicant:

"Information demonstrating that any requested incentive(s), concession(s) and/or waiver(s) are necessary to make the units affordable, or available to seniors. Information could include: calculations of affordability, evidence that incentives and concessions provide "identifiable, financially sufficient, and actual cost reductions," and economic analyses to show that any waivers are required to make the project economically feasible;"

We have requested reduction of development standards pursuant to California Government Code Section 65915(e)(1) and Oakland Planning Code Section that both provide that:

"In no case may a city apply any development standard that will have the effect of physically precluding the construction of a development meeting the category criteria in Section 17.107.040(A) at the densities or with the concessions or incentives permitted by this Chapter. An applicant may submit a proposal for the waiver or reduction of any development standard that will have the effect of physically precluding the construction of a development meeting the category criteria in Section 17.107.040(A) at the densities, or with the concessions or incentives permitted under this Chapter."

Randy Miller

Randy Miller, P.E.
President

Nautilus Group Inc

Please Note our New Address

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On Tue, May 12, 2015 at 11:53 AM, Rivera, Mike <MRivera@oaklandnet.com> wrote:

Hi Randy,

Here are staff' responses based on the items that you raised below:

Applicant: *Item 14. Please confirm that no financial feasibility report is required for a density bonus project that does not request any "incentives" or "concessions." Our project requires "waivers," but no "concessions" as defined in density bonus law.*

Staff Response: Based on State Code 65915-65918 and Planning Code 17.107.030, Item #14 from the City's incompleteness letter still applies. The application (design plans) proposes waivers or reductions (See 17.107.095) to the development standards (Maximum Building Height & Open Space/ See 17.107.080) for the requested densities. Therefore, a financial feasibility report is needed. However, you can have a third party consultant to review it for the City. The consultant can provide information to the City indicating if the project is feasible or not. This financial document does not have to disclose all the numbers.

Applicant: *Item 17. Please provide the specific requirements referred to as "required traffic calming on Telegraph and Claremont Avenue, and the street improvements around the property per the previous conditions of approval from the original approved projects." We could discuss this at our transportation meeting, but we would like to get clarification that previous conditions of approval are not binding on a new project application. Note that we were not a party to the previous approval process and have very little information on*

Rivera, Mike

From: Randy Miller <rmiller@nautilusgrp.com>
Sent: Friday, May 08, 2015 4:09 PM
To: Merkamp, Robert; Rivera, Mike
Cc: Joshua Morales; Brian Caruso
Subject: Re: 5100-5110 Telegraph Ave. Planning File:PLN15074. Project Review of status letter.

Thanks Robert.

Mike, when can we expect a response on these items?

Thank you,

Randy

Randy Miller, P.E.
President

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On Fri, May 8, 2015 at 9:16 AM, Merkamp, Robert <RMerkamp@oaklandnet.com> wrote:

Hi Randy,

I think Mike and Darin met yesterday about these topics (I was out sick) so we'll keep you informed.

Robert D. Merkamp, Development Planning Manager | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2214 | Oakland, CA 94612 | Phone: [\(510\)238-6283](tel:5102386283) | Fax: [\(510\) 238-4730](tel:5102384730) | Email: rmerkamp@oaklandnet.com | Website: www.oaklandnet.com/planning

Rivera, Mike

From: Merkamp, Robert
Sent: Wednesday, May 13, 2015 1:07 PM
To: Rivera, Mike
Cc: Ranelletti, Darin
Subject: RE: 5100-5110 Telegraph Ave. Planning File:PLN15074. Project. Review of Incompletness letter. Update on Pending Submittal Items: #14, #17 & #18

Mike,

Interesting. For the Density Bonus question, a concession or incentive is defined in government code 65915K (our own code directs you to this section and lifts much of the state language):

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

So, is he proposing something that meets the above? And if so, what?

Tell you what, why don't we consult with some colleagues. Please contact Christia Mulvey in Housing for her insight and then also contact Alicia Parker as well. She worked on this ordinance, find out her thoughts on this.

Robert D. Merkamp, Development Planning Manager | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2214 | Oakland, CA 94612 | Phone: (510) 238-6283 | Fax: (510) 238-4730 | Email: merkamp@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Rivera, Mike
Sent: Wednesday, May 13, 2015 12:55 PM
To: Merkamp, Robert
Cc: Ranelletti, Darin
Subject: FW: 5100-5110 Telegraph Ave. Planning File:PLN15074. Project. Review of Incompletness letter. Update on Pending Submittal Items: #14, #17 & #18

Hi Robert,

We should meet with the applicant and let him know that a Scope of Work and Approach documentation, prepared by an environmental consultant will be required to determine if the proposal can be exempt under Class 32. As for the required Feasibility Analysis, my understanding is that this is needed because the application includes the waiver or reduction of the development standards. The applicant seeks reduction/waiver to increase maximum building height and required open space (per plans) per the Density Incentives or Concessions. Although staff has asked the applicant (email from yesterday) that he can hire a third party consultant to submit to the City information that just indicates whether the project is feasible or not (without disclosing any financial numbers), he still disagrees. Please advise. Thank you.

Rivera, Mike

From: Randy Miller <rmiller@nautilusgrp.com>
Sent: Monday, May 18, 2015 11:51 AM
To: Rivera, Mike
Cc: Brian Caruso; Joshua Morales; Merkamp, Robert
Subject: Re: 5100-5110 Telegraph Ave. Planning File:PLN15074. Project. Review of Incompleteness letter. Update on Pending Submittal Items: #14 & #18

Hi Mike,

Your question is fair. The answer is that State density bonus law addresses reduction of development standards in two places. The first place is section 65915(e), subparts 1 and 2. The second place is the section that you quoted, section 65915(k). For reference, here are both sections:

- (e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.
- (2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

- (k) For the purposes of this chapter, concession or incentive means any of the following:
- (1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.
- (2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
- (3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

The critical distinction is to know when a reduction in a development standard is a "waiver" under 65915(e) and when is it a "concession" or "incentive" under 65915(k). The answer to this question is a waiver is requested and must be granted to a project when the reduction in development standards is necessary to physically locate the project with the density bonus on the site. Whereas an incentive or concession must be granted when requested under the code in order to make the project economically feasible.

In the case of 51st and Telegraph we have requested a "waiver" under section 65915(k) for height and open space because we cannot physically fit the project with the density bonus within the envelope defined by the applicable City development standards. We have not requested any concessions or incentives for this project.

If we had requested a reduction in development standards as a cost saving measure, than that request would be for an incentive or concession under 65915(k). Here is an illustrative example. Suppose a hypothetical site had a residential density limit of 100 units and no height limit, but the development standards provide for a 50% maximum lot coverage. For this example suppose that the proposed project could be developed in 5 stories at 20 units per floor at 50% lot coverage and could be constructed as a Type V building. Now suppose that a developer proposes a density bonus project for the hypothetical site with 135 units. The density bonus project could be developed as a 7 story building and would not require any waivers or reductions of development standards. However, this would have the effect of changing the construction type from Type V to Type I thereby causing a substantial cost increase. If the developer proposed with the density bonus project a reduction of the lot coverage requirement from 50% to 70% so that the density bonus project could be built in 5 stories thereby keeping it a lower cost Type V project, that would be a request for a concession or incentive. This hypothetical is distinct from our case because we cannot physically fit the project without a waiver as opposed to it being an economic issue.

Hopefully this explanation and the example above is helpful. Please let me know if the distinction between "waiver" and "incentive" or "concession" is still unclear.

Regards,

Randy Miller

Randy Miller, P.E.
President

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Rivera, Mike

From: Brian Caruso <bcaruso@nautilusgrp.com>
Sent: Wednesday, May 27, 2015 10:27 AM
To: Rivera, Mike
Cc: Randy Miller; Joshua Morales; Merkamp, Robert
Subject: Re: 5100-5110 Telegraph Ave. Planning File:PLN15074. Project. Review of Incompleteness letter. CEQA Reports. Update on Pending Submittal Items: #14 & #18

Good morning Mike,

Two follow-ups to Randy's email below, as I am preparing our resubmittal/response to the CUP items for this Friday 5/29 and would like assurance that what we are providing will satisfy the CUP application completeness requirements:

- We do not intend to provide a financial analysis because we do not believe we are required to do so under State density bonus law. As a reminder the project is not requesting concessions or incentives, only waivers under the law.

Please confirm that there are no economic or financial feasibility findings to be made with our density bonus application given that we have not requested incentives or concessions and that the requested development standards reductions are physically necessary. Please confirm that with no economic or financial feasibility findings to be made, that no financial feasibility report is required and Item #14 is closed.

- We believe the CEQA infill exemption is applicable to this project and we have provided the draft traffic study in support of the environmental determination. Although we haven't received specific feedback on that study yet - we will need to schedule a meeting separately - it is our understanding that additional studies are not required in order to make a determination. As Randy requests below (sections highlighted) if our understanding is incorrect or the City requests specific additional studies please outline the scope(s) of work so that we are not left guessing as to what is required and get started. In any event, such studies should not be considered a condition of completeness for the CUP submittal; for this purpose, please confirm that Item #18 is closed.

I would really like us to move past this part and get to the CEQA determination discussion, so please let me know if we're still not on the same page. Again, I intend to provide the resubmittal/response package on Friday 5/29 so if we need to schedule an in-person meeting to further discuss these items then let's please do that.

Thanks for your assistance.

Brian

Rivera, Mike

From: Randy Miller <rmiller@nautilusgrp.com>
Sent: Friday, May 08, 2015 8:08 AM
To: Rivera, Mike; Merkamp, Robert
Cc: Ranelletti, Darin; Sam Tabibnia; Brian Caruso
Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074. Applicant's Follow up Meeting for Traffic Issues.

Hi Mike and Robert,

Can we schedule this transportation review meeting for next week? Monday, Thursday, or Friday would work for me.

Please let me know.

Thank you,

Randy

Randy Miller, P.E.
President

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On Wed, Apr 29, 2015 at 1:27 PM, Brian Caruso <bcaruso@nautilusgrp.com> wrote:
Hi Mike,

We would like to schedule a meeting with you and your staff to discuss the memo as soon as possible. As I mentioned in another email I will be out of town May 1 through May 20, however during that time Randy Miller will be acting on my behalf. He is cc'd on this message and will schedule the meeting at a time that is convenient.

Thanks,
Brian

350 frank ogawa plaza suite 310 | oakland, ca 94612

o: 510.213.6226 | m: 415.913.0663

On Fri, Apr 10, 2015 at 3:32 PM, Rivera, Mike <MRivera@oaklandnet.com> wrote:

Hi Brian,

Thanks for the update.

Mike Rivera, City Planner | Major Projects | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510) 238-6417 | Fax: (510) 238-4730 | Email: mrivera@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Brian Caruso [<mailto:bcaruso@nautilusgrp.com>]

Sent: Thursday, April 09, 2015 3:54 PM

To: Rivera, Mike

Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074. Applicant's Follow up Meeting for Traffic Issues.

Hi Mike,

Just checking in, and wanted to let you know I hadn't forgotten about the draft traffic study or rescheduled meeting. It took longer than expected to get the report and I've needed some consultation from Randy who has been out of the office for the past week, so I'm a bit behind. I need just a few more days before having a draft ready for your review and our rescheduled meeting. Thanks for your patience in the meantime.

Brian

brian caruso | nautilus group, inc.

350 frank ogawa plaza suite 310 | oakland, ca 94612

On Wed, Apr 1, 2015 at 4:43 PM, Rivera, Mike <MRivera@oaklandnet.com> wrote:

Thanks for sending the design plans.

(we will not know if Darin can make the meeting on April 7th. He is out this week and will know by next Monday afternoon if Darin will attend. I will let you know by next Monday pm.) Thanks.

Mike Rivera, City Planner | Major Projects | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510) 238-6417 | Fax: (510) 238-4730 | Email: mrivera@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Brian Caruso [mailto:bcaruso@nautilusgrp.com]
Sent: Saturday, March 28, 2015 7:10 PM
To: Rivera, Mike
Cc: Ranelletti, Darin; Randy Miller
Subject: Re: Follow up meeting for 5110 Telegraph Ave. Traffic Issues.

Hi Mike,

Thank you for setting up the meeting on April 7; Fehr & Peers has confirmed their attendance as well.

I was not able to access box.com without creating an account nor was I able to initiate an upload, so instead I have provided a link to Nautilus's login-free file service here:
<https://nautilusgrp.egnyte.com/dl/iYibMyucJG>

These are the same plans that were provided in the Basic Application for Development Review submitted on 3/18.

Look forward to seeing you on April 7, if not before. Have a good weekend.

I've already reached out to Fehr & Peers for their availability next week; could you please let me know what times are best for you as well so that we can get coordinated?

Thanks so much, and I look forward to meeting with you again soon.

Brian Caruso

brian caruso | nautilus group, inc.

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o: 510.213.6226 | m: 415.913.0663

Rivera, Mike

From: Randy Miller <rmiller@nautilusgrp.com>
Sent: Friday, May 08, 2015 8:22 AM
To: Merkamp, Robert
Cc: Rivera, Mike; Joshua Morales; Brian Caruso
Subject: Re: 5100-5110 Telegraph Ave. Planning File:PLN15074. Project Review of status letter.

Hi Robert,

This email is to follow up on our meeting last week. We are preparing our re-submittal but still waiting on responses from the City of Oakland on the following items from the City's project status letter dated 4/15/15:

Item 14. Please confirm that no financial feasibility report is required for a density bonus project that does not request any "incentives" or "concessions." Our project requires "waivers," but no "concessions" as defined in density bonus law.

Item 17. Please provide the specific requirements referred to as "required traffic calming on Telegraph and Claremont Avenue, and the street improvements around the property per the previous conditions of approval from the original approved projects." We could discuss this at our transportation meeting, but we would like to get clarification that previous conditions of approval are not binding on a new project application. Note that we were not a party to the previous approval process and have very little information on the history behind these requirements, specifically what the requirements are, and whether they actually apply to our new proposed project.

Item 18. Please advise if any specific environmental reports are required in addition to the traffic report we have already submitted in order for the City to determine if the CEQA "infill exemption" can be applied to this project. We understand that these reports cannot be deemed a condition of completeness for accepting our project application, but if some simple reports would further support the applicability of the infill exemption we would like to know and get started on them.

Thank you for your assistance. We are eager to move this project along.

Regards,

Randy Miller

Randy Miller, P.E.
President

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B: Does not appear to be a requirement of the Basic Application for Development Review submittal; will provide documentation/analysis separately at a future date as necessary

C: Should not be a condition of deeming the submittal complete; please evaluate as part of the permit application process

1. A
2. B
3. C
4. A
5. B
6. A
7. A
8. C
9. A
10. B
11. A
12. A
13. B
14. B
15. A
16. C
17. C
18. C
19. A
20. A

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o: 510.213.6226 | m: 415.913.0663

On Wed, Apr 29, 2015 at 4:53 PM, Rivera, Mike <MRivera@oaklandnet.com> wrote:

Hi Brian,

Robert M. is not available at 2:30, but will be from 3:00 to 3:30 tomorrow. Please confirm.

Also, please list the issues and the reasons that you need to address from the incomplete letter, so we can respond in ½ hour. Submit them by 10am tomorrow. Thank you.

Mike Rivera, City Planner | Major Projects | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510) 238-6417 | Fax: (510) 238-4730 | Email: mrivera@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Brian Caruso [mailto:bcaruso@nautilusgrp.com]

Sent: Wednesday, April 29, 2015 12:10 PM

To: Rivera, Mike

Cc: Randy Miller; Merkamp, Robert

Subject: Re: 5100-5110 Telegraph Ave. Planning File:PLN15074. Project Status.

Hi Mike,

As a follow up to recent messages I'd like to schedule a short meeting with you to discuss the Notification of Project Status letter. There are a number of items in the letter that appear to be more appropriate for the application review process itself, as opposed to simply deeming the application complete, and others that do not appear to be a submittal requirement. I would like to discuss with you so that our response is timely and that we are on the same page moving forward.

I will be out of the office for two weeks starting on May 1 so time is of the essence; please let me know some times when you are available on 4/29 or 4/30. I will also come by the City this afternoon.

Thanks,

Brian

brian caruso | nautilus group, inc.

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On Thu, Apr 23, 2015 at 10:11 AM, Rivera, Mike <MRivera@oaklandnet.com> wrote:

Hi Brian,

Sure, thank you.

Please see attached letter for project application update. Also, complete Section B of the Non-Residential Design Review Findings. Thank you.

Mike Rivera, City Planner | Major Projects | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510) 238-6417 | Fax: (510) 238-4730 | Email: mrivera@oaklandnet.com | Website: www.oaklandnet.com/planning

Rivera, Mike

From: Randy Miller <rmiller@nautilusgrp.com>
Sent: Monday, May 11, 2015 8:44 AM
To: Rivera, Mike
Cc: Sam Tabibnia; Brian Caruso; Merkamp, Robert; Ranelletti, Darin
Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074. Applicant's Follow up Meeting for Traffic Issues.

Hi Mike,

Thank you for forwarding the Transportation Planner's comments. All of his comments seem reasonable, but are they necessary to address now? This report was always intended to be of limited scope and was performed at Darin's suggestion to help determine if the project qualified for a CEQA exemption, if the project could be assessed under an addendum to the existing EIR, or if a whole new environmental assessment will be required.

We have no objection to addressing each comment directly, but other than providing the results data in electronic format, does the City need these items analyzed now to determine if the CEQA exemption is applicable? Please advise.

Thank you,

Randy

Randy Miller, P.E.
President

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On Fri, May 8, 2015 at 4:05 PM, Rivera, Mike <MRivera@oaklandnet.com> wrote:

Hi Randy,

I will work on setting up a meeting to discuss Fehr and Peers April 20th Draft Transportation Memo.

From: Randy Miller [mailto:rmiller@nautilusgrp.com]
Sent: Friday, May 08, 2015 8:08 AM
To: Rivera, Mike; Merkamp, Robert
Cc: Ranelletti, Darin; Sam Tabibnia; Brian Caruso

Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074. Applicant's Follow up Meeting for Traffic Issues.

Hi Mike and Robert,

Can we schedule this transportation review meeting for next week? Monday, Thursday, or Friday would work for me.

Please let me know.

Thank you,

Randy

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On Wed, Apr 29, 2015 at 1:27 PM, Brian Caruso <bcaruso@nautilusgrp.com> wrote:

Hi Mike,

Attached for review please find the 5100 Telegraph Transportation Findings Draft Memorandum. We look forward to meeting with you to discuss next steps - please let me know the soonest possible date that you are available.

Thank you,

brian caruso | nautilus group, inc.

350 frank ogawa plaza suite 310 | oakland, ca 94612

o: 510.213.6226 | m: 415.913.0663

On Fri, Apr 10, 2015 at 3:32 PM, Rivera, Mike <MRivera@oaklandnet.com> wrote:

Hi Brian,

Thanks for the update.

Mike Rivera, City Planner | Major Projects | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510) 238-6417 | Fax: (510) 238-4730 | Email: mrivera@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Brian Caruso [<mailto:bcaruso@nautilusgrp.com>]

Sent: Thursday, April 09, 2015 3:54 PM

To: Rivera, Mike

Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074. Applicant's Follow up Meeting for Traffic Issues.

Hi Mike,

Mike,

It looks like we might have a conflict on this side of things, too. With Darin's uncertainty, should we maybe push back the meeting?

Brian

brian caruso | nautilus group, inc.

350 frank ogawa plaza suite 310 | oakland, ca 94612

o: 510.213.6226 | m: 415.913.0663

On Wed, Apr 1, 2015 at 4:43 PM, Rivera, Mike <MRivera@oaklandnet.com> wrote:

Thanks for sending the design plans.

(we will not know if Darin can make the meeting on April 7th. He is out this week and will know by next Monday afternoon if Darin will attend. I will let you know by next Monday pm.) Thanks.

Mike Rivera, City Planner | Major Projects | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510) 238-6417 | Fax: (510) 238-4730 | Email: mrivera@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Brian Caruso [<mailto:bcaruso@nautilusgrp.com>]

Sent: Saturday, March 28, 2015 7:10 PM

To: Rivera, Mike

Cc: Ranelletti, Darin; Randy Miller

Subject: Re: Follow up meeting for 5110 Telegraph Ave. Traffic Issues.

Hi Mike,

Mike Rivera, City Planner | Major Projects | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: [\(510\) 238-6417](tel:5102386417) | Fax: [\(510\) 238-4730](tel:5102384730) | Email: mrivera@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Brian Caruso [<mailto:bcaruso@nautilusgrp.com>]
Sent: Thursday, March 26, 2015 4:05 PM
To: Ranelletti, Darin
Cc: Rivera, Mike
Subject: Follow up meeting re: 5110 Telegraph traffic

Hi Darin,

Thanks for meeting with my team and me yesterday to review our project progress. I'm writing to follow up on your request for a meeting with Fehr & Peers to review the expected results of our traffic study.

I've already reached out to Fehr & Peers for their availability next week; could you please let me know what times are best for you as well so that we can get coordinated?

Thanks so much, and I look forward to meeting with you again soon.

Brian Caruso

brian caruso | nautilus group, inc.

350 frank ogawa plaza suite 310 | oakland, ca 94612

o: [510.213.6226](tel:510.213.6226) | m: [415.913.0663](tel:415.913.0663)

Rivera, Mike

From: Brian Caruso <bcaruso@nautilusgrp.com>
Sent: Tuesday, June 16, 2015 5:45 PM
To: Rivera, Mike
Cc: Randy Miller; Merkamp, Robert; Ranelletti, Darin
Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074. CEQA Discussion. Addendum & Class 32 Analysis. Environmental Consultant and process and information

Mike,

Below you mentioned considering the project under CEQA guideline 15183; for this section to be applicable we believe there needs to be an EIR certified for the Community Plan, General Plan, or Zoning under which the project lies. We've looked for this EIR previously and couldn't identify one, however if one exists, please forward it as we'd like to review before Thursday.

Thanks,
Brian

brian caruso | nautilus group, inc.

350 frank ogawa plaza suite 310 | oakland, ca 94612
o: 510.213.6226 | m: 415.913.0663

----- Forwarded message -----

From: Rivera, Mike <MRivera@oaklandnet.com>
Date: Tue, Jun 16, 2015 at 1:15 PM
Subject: 5110 Telegraph Ave. Planning File:PLN15074. Overall CEQA Issues. Meeting with the Environmental Consultant and Planning staff
To: "Brian Caruso (bcaruso@nautilusgrp.com)" <bcaruso@nautilusgrp.com>
Cc: "Merkamp, Robert" <RMerkamp@oaklandnet.com>

Hello Brian,

Per your request, the purpose for the meeting is to provide general guidance/direction to the project environmental consultant to prepare a CEQA document ("no name") that relies on the existing 2007 EIR, and to include the Class 32 In-fill Exemption. The analysis for the document will be an Addendum to the EIR, and will need to include at least CEQA Sections 15183, 15162 and 15332 to support the project as much as possible. The focus of the document is to show in the Addendum and in the Class 32 analysis that even though this is a new and bigger project that there are no new significant impacts, and the CEQA criteria can be met. Also, as part of the CEQA analysis, the document needs to include other related technical studies that include

Hi Brian,

Thanks for the update on having a project environmental consultant to be part of the meeting. I will see if we can match your suggested meeting dates with ours.

Mike Rivera, City Planner | Major Projects | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510) 238-6417 | Fax: (510) 238-4730 | Email: mriviera@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Brian Caruso [<mailto:bcaruso@nautilusgrp.com>]

Sent: Friday, June 12, 2015 12:52 PM

To: Rivera, Mike

Cc: Merkamp, Robert; Ranelletti, Darin; Randy Miller

Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074. CEQA Issues. Environmental Consultant. Meeting

Mike,

We're looking forward to this meeting. Randy and I will attend and will plan to bring our consultants. We are available the following times next week:

- Monday 6/15 anytime after 1:00 PM
- Wednesday 6/17 8:00 AM - 10:00 AM
- Thursday 6/18 10:00 AM - 12:00 PM and anytime after 2:00 PM

Please confirm your availability.

Thanks,

Brian

Cc: Randy Miller; Merkamp, Robert

Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074. CEQA. Consultant

Hi Mike,

Thanks for your reply, and please do let me know the soonest you are available to meet; we're eager to move things along within the stipulated CEQA timelines, so the sooner we discuss the traffic report and environmental studies the better.

We haven't retained an environmental consultant yet and it's not possible to so until we understand what scopes the city is requesting. The document you attached references a "draft scope of work" to be "affirmatively approved" by the city, prime- vs. sub-consultant arrangements, etc. Obviously we can't determine any of this without first having a discussion with you and the rest of staff. And, please be reminded, we entered this CUP process under the understanding that only a traffic study would be required. The notion that "other environmental studies" will be required by the City is new to us as of the first CUP response, and a process that merits further discussion before retaining a consultant at significant expense. We just want to understand what studies you are referring to, if they are relevant under the CEQA infill exemption, how they will be applied and evaluated, and when.

Again, the sooner you can schedule this meeting the better.

Thanks for your understanding.

Brian

brian caruso | nautilus group, inc.

350 frank ogawa plaza suite 310 | oakland, ca 94612

o: 510.213.6226 | m: 415.913.0663

Hi Brian,

My message was about staff asking you to identify/hire an environmental consultant to prepare additional CEQA documents for the project. Once we have a consultant, we will need to meet and discuss the process and provide you with direction in preparing the applicable technical reports. Please call (Robert Merkamp and I) if you have questions. Thank you.

Mike Rivera, City Planner | Major Projects | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: [\(510\) 238-6417](tel:5102386417) | Fax: [\(510\) 238-4730](tel:5102384730) | Email: mriviera@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Brian Caruso [<mailto:bcaruso@nautilusgrp.com>]
Sent: Wednesday, June 03, 2015 12:13 PM
To: Rivera, Mike
Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074

Mike, I did not sorry. I was called to jury duty and am out of the office. In the future please call me on my cell only, I seldom check messages at the office.

Can you please summarize your message in an email?

Thanks,

Brian

brian caruso | nautilus group, inc.

350 frank ogawa plaza suite 310 | oakland, ca 94612

o: [510.213.6226](tel:5102136226) | m: [415.913.0663](tel:4159130663)

On Wed, Jun 3, 2015 at 12:09 PM, Rivera, Mike <MRiviera@oaklandnet.com> wrote:

Rivera, Mike

From: Brian Caruso <bcaruso@nautilusgrp.com>
Sent: Wednesday, June 17, 2015 11:42 AM
To: Rivera, Mike
Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074. CEQA Discussion. Addendum & Class 32 Analysis. Environmental Consultant and process and information

Good morning Mike,

I'm following up to see that you received my message below. If you can send the requested EIR(s) today that will allow sufficient time for us to review and be prepared for tomorrow's meeting.

Also, I would like to request that you have the city attorney present. I think it's a good idea to have them there so we get a clear understanding of what the city's plans and expectations are for determining the infill exemption. We haven't exactly been on the same page thus far with respect to the CEQA process, so having the person with the final say there will ensure things move along.

Thanks in advance for your understanding. See you tomorrow at 11:00.

Brian

brian caruso | nautilus group, inc.

350 frank ogawa plaza suite 310 | oakland, ca 94612
o: 510.213.6226 | m: 415.913.0663

On Tue, Jun 16, 2015 at 5:45 PM, Brian Caruso <bcaruso@nautilusgrp.com> wrote:
Mike,

Below you mentioned considering the project under CEQA guideline 15183; for this section to be applicable we believe there needs to be an EIR certified for the Community Plan, General Plan, or Zoning under which the project lies. We've looked for this EIR previously and couldn't identify one, however if one exists, please forward it as we'd like to review before Thursday.

Thanks,
Brian

brian caruso | nautilus group, inc.

350 frank ogawa plaza suite 310 | oakland, ca 94612
o: 510.213.6226 | m: 415.913.0663

Rivera, Mike

From: Brian Caruso <bcaruso@nautilusgrp.com>
Sent: Thursday, June 18, 2015 10:30 AM
To: Rivera, Mike
Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074. CEQA Discussion. Addendum & Class 32 Analysis. Meeting with Environmental Consultant from 11am to Noon . DEIR for the 1998 LUTE

Thank you Mike.

brian caruso | nautilus group, inc.

350 frank ogawa plaza suite 310 | oakland, ca 94612
o: 510.213.6226 | m: 415.913.0663

On Thu, Jun 18, 2015 at 9:43 AM, Rivera, Mike <MRivera@oaklandnet.com> wrote:

Hi everyone,

See attached. Thank you.

Mike Rivera, City Planner | Major Projects | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: [\(510\) 238-6417](tel:5102386417) | Fax: [\(510\) 238-4730](tel:5102384730) | Email: mrivera@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Brian Caruso [<mailto:bcaruso@nautilusgrp.com>]
Sent: Thursday, June 18, 2015 9:23 AM
To: Rivera, Mike
Cc: Merkamp, Robert; Randy Miller
Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074. CEQA Discussion. Addendum & Class 32 Analysis. Environmental Consultant Meeting. Certified EIR for the 1998 LUTE

Thanks Mike. But this is just the Final Addendum to the Draft EIR. Are there other Addenda, and where is the complete Draft EIR document?

Thanks,

Brian

brian caruso | nautilus group, inc.

350 frank ogawa plaza suite 310 | oakland, ca 94612

o: 510.213.6226 | m: 415.913.0663

On Wed, Jun 17, 2015 at 2:04 PM, Rivera, Mike <MRivera@oaklandnet.com> wrote:

Brian,

See LUTE attached. We will see you and the project consultant tomorrow. Thank you.

Mike Rivera, City Planner | Major Projects | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510) 238-6417 | Fax: (510) 238-4730 | Email: mrivera@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Brian Caruso [<mailto:bcaruso@nautilusgrp.com>]

Sent: Wednesday, June 17, 2015 1:49 PM

To: Rivera, Mike

Cc: Merkamp, Robert; Randy Miller

Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074. CEQA Discussion. Addendum & Class 32 Analysis. Environmental Consultant. Certified EIR. Applicant's

The General Plan.

Thanks,

Brian

brian caruso | nautilus group, inc.

350 frank ogawa plaza suite 310 | oakland, ca 94612

350 frank ogawa plaza suite 310, oakland, ca 94612

o: 510.213.6226 | m: 415.913.0663

----- Forwarded message -----

From: **Rivera, Mike** <MRivera@oaklandnet.com>

Date: Tue, Jun 16, 2015 at 1:15 PM

Subject: 5110 Telegraph Ave. Planning File:PLN15074. Overall CEQA Issues. Meeting with the Environmental Consultant and Planning staff

To: "Brian Caruso (bcaruso@nautilusgrp.com)" <bcaruso@nautilusgrp.com>

Cc: "Merkamp, Robert" <RMerkamp@oaklandnet.com>

Hello Brian,

Per your request, the purpose for the meeting is to provide general guidance/direction to the project environmental consultant to prepare a CEQA document ("no name") that relies on the existing 2007 EIR, and to include the Class 32 In-fill Exemption. The analysis for the document will be an Addendum to the EIR, and will need to include at least CEQA Sections 15183, 15162 and 15332 to support the project as much as possible. The focus of the document is to show in the Addendum and in the Class 32 analysis that even though this is a new and bigger project that there are no new significant impacts, and the CEQA criteria can be met. Also, as part of the CEQA analysis, the document needs to include other related technical studies that include transportation, air/water quality, noise and may include greenhouse gas emissions, shadow (next to a public park/Frog Park) and aesthetics. Overall, the most significant key element of this new proposed project would be traffic and the options/alternatives that staff may recommend the applicant to consider and include in the CEQA analysis is to study the loading area along 51st Street, rather than Clarke St. Planning is also working to standardize a template for these types of projects that should hopefully reduce the time the consultant works on it, and thus reduce cost. We will see you this Thursday morning. Thank you.

Mike Rivera, City Planner | Major Projects | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510) 238-6417 | Fax: (510) 238-4730 | Email: mrivera@oaklandnet.com | Website: www.oaklandnet.com/planning

On Mon, Jun 15, 2015 at 3:06 PM, Brian Caruso <bcaruso@nautilusgrp.com> wrote:

Thanks for the update on having a project environmental consultant to be part of the meeting. I will see if we can match your suggested meeting dates with ours.

Mike Rivera, City Planner | Major Projects | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: [\(510\) 238-6417](tel:5102386417) | Fax: [\(510\) 238-4730](tel:5102384730) | Email: mrivera@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Brian Caruso [<mailto:bcaruso@nautilusgrp.com>]

Sent: Friday, June 12, 2015 12:52 PM

To: Rivera, Mike

Cc: Merkamp, Robert; Ranelletti, Darin; Randy Miller

Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074. CEQA Issues. Environmental Consultant. Meeting

Mike,

We're looking forward to this meeting. Randy and I will attend and will plan to bring our consultants. We are available the following times next week:

- Monday 6/15 anytime after 1:00 PM
- Wednesday 6/17 8:00 AM - 10:00 AM
- Thursday 6/18 10:00 AM - 12:00 PM and anytime after 2:00 PM

Please confirm your availability.

Thanks,

Brian

brian caruso | nautilus group, inc.

Hi Mike,

Thanks for your reply, and please do let me know the soonest you are available to meet; we're eager to move things along within the stipulated CEQA timelines, so the sooner we discuss the traffic report and environmental studies the better.

We haven't retained an environmental consultant yet and it's not possible to so until we understand what scopes the city is requesting. The document you attached references a "draft scope of work" to be "affirmatively approved" by the city, prime- vs. sub-consultant arrangements, etc. Obviously we can't determine any of this without first having a discussion with you and the rest of staff. And, please be reminded, we entered this CUP process under the understanding that only a traffic study would be required. The notion that "other environmental studies" will be required by the City is new to us as of the first CUP response, and a process that merits further discussion before retaining a consultant at significant expense. We just want to understand what studies you are referring to, if they are relevant under the CEQA infill exemption, how they will be applied and evaluated, and when.

Again, the sooner you can schedule this meeting the better.

Thanks for your understanding.

Brian

brian caruso | nautilus group, inc.

350 frank ogawa plaza suite 310 | oakland, ca 94612

o: 510.213.6226 | m: 415.913.0663

On Thu, Jun 4, 2015 at 3:51 PM, Rivera, Mike <MRivera@oaklandnet.com> wrote:

Hi Brian,

My message was about staff asking , to identify/hire an environmental consultant to prepare additional CEQA documents for the project. Once we have a consultant, we will need to meet and discuss the process and provide you with direction in preparing the applicable technical reports. Please call (Robert Merkamp and I) if you have questions. Thank you.

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From: Brian Caruso [<mailto:bcaruso@nautilusgrp.com>]
Sent: Wednesday, June 03, 2015 12:13 PM
To: Rivera, Mike
Subject: Re: 5110 Telegraph Ave. Planning File:PLN15074

Mike, I did not sorry. I was called to jury duty and am out of the office. In the future please call me on my cell only, I seldom check messages at the office.

Can you please summarize your message in an email?

Thanks,

Brian

brian caruso | nautilus group, inc.

350 frank ogawa plaza suite 310 | oakland, ca 94612

o: [510.213.6226](tel:5102136226) | m: [415.913.0663](tel:4159130663)

On Wed, Jun 3, 2015 at 12:09 PM, Rivera, Mike <MRivera@oaklandnet.com> wrote:

Hi Brian,

Rivera, Mike

From: Google Calendar <calendar-notification@google.com> on behalf of Randy Miller <rmiller@nautilusgrp.com>
Sent: Monday, March 23, 2015 12:19 PM
To: Rivera, Mike
Subject: Accepted: PLN15074 @ 5110 Telegraph Ave. New Project. Nautilus Grou... @ Wed Mar 25, 2015 10:30am - 11:30am (rmiller@nautilusgrp.com)

Randy Miller has accepted this invitation.

PLN15074 @ 5110 Telegraph Ave. New Project. Nautilus Group meeting request with staff

Hi,
Applicant, Brian Caruso requested a meeting with staff to present the new proposed project. Please let me know if you can attend.
Mike R

Wed Mar 25, 2015 10:30am – 11:30am Pacific Time

When
Where
Calendar
Who

2nd Floor. Conference 1 ([map](#))

rmiller@nautilusgrp.com

- [organizer](#) Rivera, Mike -
- Randy Miller - creator
- Flynn, Rachel
- jlaub@nautilusgrp.c
- [om](#)
- Brian Caruso
- jmorales@nautilusgr
- [p.com](#)
- [alarson@nautilusgr](#)
- [p.com](#)
- Merkamp, Robert
- Ranelletti, Darin

Imported from [Google Calendar](#)

You are receiving this courtesy email at the account mrivera@oaklandnet.com because you are an attendee of this event.

To stop receiving future updates for this event, decline this event. Alternatively you can sign up for a Google account at <https://www.google.com/calendar/> and control your notification settings for your entire calendar.



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