

LAW OFFICES OF
BROWN & SULLIVAN, LLP
1000 MARINA VILLAGE PARKWAY, SUITE 120
ALAMEDA, CALIFORNIA 94501

TELEPHONE (510) 521-1211
FACSIMILE (510) 521-7879

SENDER'S E-MAIL
tps@brown-sullivan.com

May 7, 2015

SUPPLEMENT

John T. Betterton
Secretary of the Board of Port Commissioners
Port of Oakland
530 Water Street
Oakland, CA 94607

Re: *195 Hegenberger Road; Appeal of Permit No. 5016; Hearing Date: May 14, 2015*

Dear Secretary Betterton and Honorable Port Commissioners:

This office represents Monarch Equity Investments, Inc. ("Monarch"), the applicant under the above-referenced permit granted after a hearing by the Port Hearing Officers on December 2, 2014 ("Permit"). The permit approved the construction of a hotel at the above-referenced property ("Project"). Two appeals were filed challenging the granting of that Permit. The initial hearing on those appeals was heard by the Board of Port Commissioners ("Board") on February 26, 2015. After the public comment portion of the hearing was closed, the Board voted to continue the hearing to enable Port staff and Monarch to address several issues of concern that were raised by the Board during the hearing.

The purpose of this letter is to briefly introduce the developer, and to summarize the history of the Project and the results of the developer's recent meetings with neighboring property owners. In addition, the letter briefly addresses the appellants' arguments on appeal and attempts to clarify some apparent misconceptions that arose during the initial hearing.

1. Developer Background

The shareholders of Monarch are Chhotu (Ken) Patel, Dahnsukh (Dan) Maneklal, and Mahendra (Mike) Bhukhan ("Owners"). Collectively, the Owners have developed and/or operated numerous hotels in the western United States. Their franchise affiliations include InterContinental Hotels Group, Hilton, and Marriott to name a few.

Notable among their local holdings is the Holiday Inn and Suites located at 77 Hegenberger Road located less than one-quarter mile from the site of the Project. Like the Project, the Holiday Inn, a full-service hotel, was a ground-up development which the Owners have owned and operated since 2008. I would encourage each of you to visit that hotel as well as read the online reviews for that hotel. I believe you will see that this hotel is a well-run, pride-of-ownership facility that is providing excellent hotel service to business travelers and tourists to the City of Oakland.

As operators of the Holiday Inn on Hegenberger the Owners are well aware of the shortage of hotel accommodations serving the Oakland Airport vicinity. This led the Owners to investigate and ultimately purchase the undeveloped land where the Project is located for construction of a new hotel. The Owners understand the needs of the area and have the vision, background and commitment to develop and operate another thriving facility that will serve the City of Oakland for many years.

2. Project Background

Monarch acquired the 1.93-acre “flag-shaped” parcel where the Project is located in November 2013. Prior to Monarch’s acquisition of the parcel, the parcel stood as vacant land for approximately 25 years. Monarch began the application process for the Project with the Port in December 2013. Attached to this letter at **Tab 1** is an aerial photo of the current site, together with aerial views of two renderings of the completed project.

Monarch hired Environmental Service Associates (“ESA”) as its primary CEQA consultant based on numerous recommendations that ESA not only was among the most reputable environmental science, planning and engineering firms in the East Bay, but that it had considerable experience with properties within the Port of Oakland’s jurisdiction. Collectively, Monarch, ESA and Port staff have spent hundreds of hours studying, planning, and fine-tuning the Project to ensure that the Project not only met all requirements of the Land Use and Development Code (“LUDC”), but also made optimal use of a less than optimal, in-fill site that apparently no other hotel developer has had the vision or desire to pursue.

One aspect of Monarch’s initial application that appears to have engendered needless controversy was Monarch’s early branding of the proposed hotel as a Springhill Suites. In retrospect, Monarch could have and doubtless should have, submitted the initial hotel plans without any advance franchise affiliation. Port staff has confirmed that this approach would have been perfectly acceptable.

In any event, after their initial project review Port staff requested clarification of the original draft project plans which did not clearly depict a full service restaurant as required under the LUDC. Monarch revised the plans to clearly show a full serve restaurant and kitchen facility. This was only one of many changes, refinements and clarifications that were made to the Project during the review process.

In the end, Port staff determined that the Project met all requirements of the LUDC and expressed their strong support for the Project. Project development notices were sent to surrounding property owners soliciting their comments. Thereafter, the matter was brought before the Port Hearing Officers for approval. After carefully considering the objections of the two current appellants, the Port Hearing Officers unanimously approved the Project subject to several new conditions and CEQA mitigation measures.

3. Current Pending Appeals

The appellants challenging the Port Hearing Officers’ decision are Unite Here Local 2850 (“Unite Here”) and the Carpenters Union Trust Fund of Northern California (“Carpenters”). Carpenters owns the property adjoining the north end of the Project site.

A. Unite Here’s Appeal

Unite Here raises two primary arguments in its letter of appeal dated December 23, 2014. First, that Monarch cannot be trusted to honor the condition of approval in the Permit requiring Monarch to operate a full service restaurant at the hotel. Second, that Monarch has understated the number of employees necessary to operate the hotel and/or the estimated commute miles those employees will

travel to work, resulting in understated greenhouse gas emissions that necessitate unspecified additional mitigation measures.

Unite Here's first argument has no merit. It is not a valid ground of appeal to speculate what might happen if an applicant ignored a condition of approval imposed by the permitting agency. To even consider such an argument, let alone deny an application based on such an argument, would be to open the door for challenge to every project that has any ongoing conditions of approval. Moreover, it would compel the permitting authority to conduct some sort of subjective "integrity test" on the applicant of every such project. This asserted ground of appeal should be summarily disregarded.

Unite Here's second argument on appeal is that ESA has miscalculated the greenhouse gas emissions attributable to the Project. In a letter to the Port's Executive Director dated November 25, 2014 (included as part of Unite Here's appeal), Unite Here made the same argument. However, in the November 25 letter Unite Here's argument relied, in part, on a challenge to Monarch's estimate of 35 full-time employees for the proposed hotel. Shortly thereafter, ESA issued a clarifying technical memo dated December 4, 2014, explaining, among other things, that its calculation of potential greenhouse emissions, as required under CEQA, assumed a number of employees as high as 125. Unite Here's letter of appeal no longer expressly challenges to Monarch's employee count. Presumably, this is a tacit admission that the employee count has no relevance to the calculation of greenhouse gas emissions in this case.

Unite Here's other factual basis for challenging the accuracy of ESA's calculation of potential greenhouse gas emissions is that the assumed average daily commute miles used by ESA in its calculations is arbitrary and too low, and that ESA's scientific formula for calculating greenhouse gas emissions is incorrect. The methodology for calculating greenhouse gas emissions has been exhaustively documented by ESA, and Port staff is satisfied with the accuracy of that analysis.

It is worth noting that despite objecting to the greenhouse gas emissions that the Project supposedly will engender, Unite Here concludes its letter of appeal with the statement that its overriding preference nonetheless is to have "a real full service hotel" at the site. It would seem that in the view of Unite Here, the greenhouse gas issue would not be a concern if the emissions came from a Sheraton or a Hilton, as opposed to a Springhill Suites (or at least a Springhill Suites owned by this applicant).

B. Carpenters' Appeal

Carpenters' appeal, as summarized in the letter appeal dated December 31, 2014 from their attorney, David Blackwell, focuses on three issues. First, that traffic exiting from the shared private driveway onto Hegenberger Road (the "Driveway") will create unacceptable delays and safety concerns. Second, that parking for the Project is inadequate. Third, that food truck deliveries will create unspecified loading and circulation problems onsite and offsite.

With respect to the first issue concerning exiting onto Hegenberger from the Driveway, it is noteworthy how this argument by Carpenters has evolved since the December 2 hearing before the Port Hearing Officers. In a letter dated November 24, 2014 (included as part of Carpenters' appeal), Carpenters' consulting engineer, Boster, Kobayashi & Associates, devotes nearly one-half of a five-page letter to describing the perceived dangers and delays of permitting left hand turns from the Driveway onto

Hegenberger. That discussion concludes with two suggested remedies: (1) widening the Driveway to accommodate a left hand turn only lane, and/or (2) encouraging hotel guests and employees to use the alternate Pardee Drive driveway.

At the December 2 hearing the Port Hearing Officers did even more than suggested by Carpenters' consultant. They not only imposed a condition of approval requiring Monarch to install onsite traffic signs directing hotel employees and guests to use the Pardee Drive access and driveway, but they also imposed a condition requiring Monarch to post signs restricting all vehicles exiting onto Hegenberger to right turns only. Nevertheless, rather than concede the issue as moot, Carpenters continues to argue on appeal that the alternative of widening the Driveway to accommodate a left turn only lane should have been studied.¹

Carpenters' next argument is that parking for the project is inadequate. However, according to the analysis and calculations by Port staff and ESA, the LUDC requires that a 140 room hotel with a 69 seat meeting/banquet room have 148 parking stalls. This project provides for 151 parking stalls. Carpenters' argument that 167 parking stalls are required for the project simply is wrong.

Carpenter's final argument on appeal is that the truck loading at the Project, particularly with respect to food deliveries to the hotel restaurant, fail to comply in some unspecified way with some unspecified portions of the LUDC. Carpenters goes on to speculate that food delivery trucks will not or cannot adequately be accommodated at the hotel's porte-cochere. Carpenters further speculates that the timing and frequency of food deliveries will conflict with internal vehicular circulation of hotel guests and adjacent property owners. None of these arguments has any merit.

Monarch's food delivery service, Sysco Corporation has confirmed that Monarch may order food deliveries at virtually any hour of the day. It is Monarch's intention to order the food deliveries between 1:00 a.m. and 5:00 a.m. when there will be little or no chance of conflict with any arriving or departing guests. The delivery trucks also will be instructed to use the Pardee Street entrance. Monarch anticipates that these deliveries will occur twice per week and last for no more than 15-20 minutes each.

With regard to the size and maneuverability of the delivery trucks, the porte-cochere (which is fifteen (15) feet tall) has been designed pursuant to the City of Oakland Building Code, and the Oakland Fire Department requirements, to accommodate full access and maneuverability by firefighting trucks and apparatus which are larger than any food delivery truck. In summary, none of Carpenters' speculation about the negative impacts of food truck deliveries to the hotel's restaurant has any merit.

¹ Carpenters also points out in passing that the right turn only condition of approval is subject to consent by the current authorized users of the shared Driveway. Those authorized users, pursuant to a Declaration of Easements recorded by the original owner of all the affected properties, are Monarch, Harley-Davidson and Carpenters. Monarch has accepted the condition. As discussed in Section 4.A., below, Harley-Davidson also strongly supports the right hand turn only restriction at this location. Thus, the only party with the ability to thwart this condition of approval is Carpenters itself. Obviously, if Carpenters refuses to consent to this condition of approval, which was imposed in direct response to Carpenters' own stated safety and congestion concerns, it would call into question Carpenters' motivation for voicing such concerns in the first place.

4. Meetings With Neighboring Property Owners

Independent of the asserted grounds for appeal by Unite Here and Carpenters, and notwithstanding that no neighboring property owners other than Carpenters has expressed any opposition to the Project as approved by the Port Hearing Officers, the Board strongly encouraged Monarch to reach out to those neighboring property owners prior to the continued appeal hearing date. The following is a brief synopsis of Monarch's efforts in this regard. A more detailed summary of those meetings is contained in correspondence from Monarch to Port staff that is part of the supplemented record.

A. Harley-Davidson

Monarch's representatives previously met with representatives of Harley-Davidson ("H-D") at least three times during the application process with the Port. H-D expressed two primary concerns during those meetings. First, H-D was concerned about congestion of the shared driveway exiting at Hegenberger, and expressly requested that the driveway be made right-turn only for exiting vehicles. Second, H-D was concerned about how the common access area behind its property would adjoin the new hotel, particularly as it related to fencing and security. Monarch's representatives walked the site with H-D's representatives and explained the development. H-D expressed its general satisfaction with that explanation. Despite these prior meetings with H-D, in response to the Board's suggestion that Monarch reach out again to its neighbors, Monarch's representatives met again with H-D's representatives on March 12, 2015. The results of that meeting again were positive. H-D does not oppose the project and both sides agreed to remain in communication during the permitting and construction phase to minimize any surprises or misunderstandings.

B. Francesco's Restaurant

Prior to Monarch's submission of its formal application to the Port, Monarch's representatives had one conversation with the manager of Francesco's during which Monarch explained the project in conceptual form and Francesco's manager expressed support for the idea of a hotel on the vacant lot which likely would bring additional business to Francesco's. On March 17, 2015, Monarch's representatives met again with Francesco's owner/manager, Teresa Erwin, to discuss the specifics of the Project. The results of that meeting were once again positive. Ms. Erwin is very supportive of the Project and would like to see it built as soon as possible.

C. Comcast

During the application process Monarch had one discussion with a local Comcast management employee regarding the project. At that time, Comcast expressed no concerns about the Project. On March 23, 2015, Monarch's representatives attended a meeting at the site with Comcast's representatives. The parties discussed the Project and Comcast indicated it had no objections and was supportive of the Project.

D. Carpenters

Early in the application process Monarch's representative had a meeting with someone they understood to be a representative of Carpenters. None of the current concerns expressed in Carpenters' appeal were raised or discussed. On April 6, 2015, Monarch's representatives met with the Carpenters' representative, Mark Taylor, at the site. Mr. Taylor raised a number of concerns, including several that are not part of Carpenters' appeal. Monarch believes that good progress was made in ameliorating many of Mr. Taylor's expressed concerns and both sides agreed to remain in communication with each other.

E. Unite Here

Although Unite Here is not a neighboring property owner, Monarch's representatives nonetheless met with Unite Here's representatives at the site on April 6, 2015. There was an initial discussion about the two concerns raised by Unite Here in their appeal but no resolution was achieved. There also was a cordial but frank discussion about Unite Here's desire to have Monarch execute a written agreement with regard to future unionization of hotel workers at the new hotel. Monarch indicated that it has every intention of complying with all applicable laws pertaining to union organization but was not prepared to immediately sign an agreement that clearly required thoughtful study. Both sides again agreed to remain in communication with regard to all issues of concern between them.

5. Support From Other Interested Parties

Monarch has obtained general letters of support for the Project from a variety of interested entities including Delta Air Lines, Federal Express, Oakland City Councilman Larry Reid, and Visit Oakland. Those letters are attached hereto collectively at **Tab 2**. In addition, on May 4, 2015, Monarch's representatives met with the Honorable Libby Schaaf, Mayor of Oakland, who expressed her strong support for the Project and specifically authorized Monarch to communicate that fact to the Board.

6. Conclusion

Unite Here and Carpenters have raised several unrelated arguments on appeal. Monarch, ESA and Port staff have demonstrated that those arguments have no validity. The Project presents a unique opportunity for the Port and the City of Oakland to gain another much needed hotel to serve the airport on a challenging parcel of land that heretofore has stood as a vacant lot for at least 25 years. In addition, this Project will create jobs for the citizens of Oakland and generate income for the City and County through property taxes and transient occupancy taxes.

The Owners are sophisticated and experienced hotel developers and operators who have a proven track record in Oakland. Port staff has spent a great many hours working with the applicant on this Project. Other than Carpenters, no immediate neighbors have expressed any opposition to this Project as approved. Accordingly, Monarch respectfully requests that the Board confirm the recommendation of Port staff and the unanimous decision of the Port Hearing Officers by denying the pending appeals and allowing this Project to proceed.

Very truly yours,



THOMAS P. SULLIVAN

Enclosures

cc: Port Commissioners Alan S. Yee, Cestra Butner, Earl S. Hamlin
Michael Colbruno, James W. Head, Bryan Parker, and Victor Uno
J. Christopher Lytle, Port of Oakland
Richard Sinkoff, Port of Oakland
Ty Hudson, Unite Here
David H. Blackwell, Esq.

TAB 1

Site Views

(Attached)

TAB 2

Letters of Support

(Attached)





© 2013 Google

Google earth

37°42'53.67" N 122°12'02.67" W elev 14 ft eye alt 1015 ft



© 2013 Google
Data UDEO-Columbia, NSF, NOAA
Data SIO, NOAA, U.S. Navy, NGA, GEBCO

Google earth

2010

Imagery Date: 4/15/2013

eye alt 196 ft



Chris Alizieri
Sourcing Manager
Corporate Travel Services

Delta Air Lines, Inc.
1030 Delta Blvd.
Dept. 882
Atlanta, GA 30320-6001
T. +1 404 715 1869
F. +1 404 677 3548
Christopher.alizieri@delta.com

March 31, 2015

To Whom It May Concern:

This letter serves as support for the addition of the Springhill Suites at the Oakland Airport. This high demand, limited inventory market would benefit from such an addition to the area. As a customer who delivers daily crew layover needs to Oakland with a requirement to be in the immediate vicinity of the airport, a greater selection is truly welcomed. We have a long standing relationship with the Holiday Inn Oakland Airport who has well understood the critical needs for crew layovers. The ownership and management maintain the hotel very well and continually makes investments to ensure a very high quality product is offered so I have faith in them pursuing another property.

Regards,


Chris Alizieri



DATE: 12 MARCH 2015

RE: FEDEX EXPRESS PILOT HOUSING AT OAKLAND INTERNATIONAL AIRPORT

FedEx Express operates a major package sorting facility at the Oakland International Airport, and we currently have a contract with the Airport Holiday Inn & Suites on Hegenberger Road. While we have an excellent partnership with the property, there are simply not enough quality airport hotels meeting our stringent layover requirements for our pilots. Using several hundred rooms monthly at the Oakland airport alone, we would appreciate more hotel options. The Airport Holiday Inn management provides us excellent service, as the Director of Sales totally understands the special requirements of crew rest for airline pilots. However, we need more crew rooms than are currently available. Thus, I am anxiously awaiting the proposed new Springhill Suites across from the Holiday Inn and intend to do business with that property, assuming all of our special requirements can be met at a feasible and acceptable room cost.

Additionally, with the exception of 2 parking spaces, we do not require parking space, as the hotel provides our ground transfers with their 24/7 shuttle service.

Respectfully,

A handwritten signature in black ink, appearing to read "Tamara M. Parrish", with a long, sweeping horizontal line extending to the right.

Tamara M. Parrish

Sr. Flight Administrator



FedEx Crew Travel Services
3131 Democrat Road; Bldg. D
Memphis, TN 38118-0106
901-224-6639 (phone)
901-492-9047 (fax)
tmparrish@fedex.com (email)

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND , CALIFORNIA 94612

LAURENCE E. REID
Councilmember District #7
lreid@oaklandnet.com

(510) 238-7007
FAX: (510) 238-6910
TDD: (510) 839-6451

March 20, 2015

To Whom It May Concern;

As President Pro Tem for the City of Oakland, and as the Councilmember representing the 7th District for the City of Oakland, I am honored to submit this letter in full support of the development of a new Hotel along the Hegenberger Corridor.

For as long as I have served this great city of Oakland, which spans over 30 years, I have always subscribed to the notion that the Airport/Hegenberger Corridor has served as the Opening Gateway for visitors, business's, families, sports enthusiasts, and travelers alike, to have the experience of the wonderful accommodations that the City of Oakland has to offer. What has been an experience of growth, not only throughout the Bay Area Region, but more importantly, throughout the City of Oakland, the creation of a newly developed hotel along this area has fostered the idea of what is truly needed. A first Class Hotel Development can only enhance the growth of this area and, the City of Oakland.

While large corporations and convention organizers are constantly looking for an ideal location to create thriving concepts, the Airport/Hegenberger Corridor serves as the most convenient location for a first class hotel. What better location then near one of, if not the most, accommodating International Airports in the Bay Area? We, at the City have invested hundreds of thousands of dollars in the Airport Area, including a viable Business Park, a Direct Connector from the Bay Area Rapid Transit System (BART) to the Oakland International Airport, and are currently embarking on Coliseum City, which will transform the entire area into a plethora of opportunities for our Sports Franchises, as well as entertainment and future office accommodations.

Again, let me add my strong support, to the development of a new Hotel along the Airport/Hegenberger Corridor to further enhance the growth of the City of Oakland.
Respectfully submitted,

Larry E. Reid
President Pro Tem
Oakland City Council
Council Member, District 7



March 10, 2015

Holiday Inn Oakland Airport
77 Hegenberger Rd.
Oakland CA 94621

RE: Hotel Demand in Oakland

Visit Oakland serves as the Official Tourism Bureau for the city of Oakland, and as such has done significant data driven research on hotel rates, occupancy, REV PAR and demand for Oakland. The Visit California 2014 research indicates that ***Oakland leads the state in demand for more hotel rooms.***

With the growth at Oakland International Airport and new direct routes to cities like Nashville, New Orleans and Dallas as well as international flights to Scandinavia and Mexico – the demand for overnight accommodations in the airport corridor is high. It is not just visitors who need these rooms. The corporate business and jobs created through increasing air traffic means that there are more airline crew, manufacturers, mechanics etc as well.

Oakland is experiencing a revival of sorts. Technology companies, medical facilities, Port of Oakland activities etc – all drive overnight stays and Oakland is experiencing occupancy rates over 80% - well above most cities or the national average.

The need for additional hotel rooms is real. It has been identified as a priority for the Mayor's Office and the city's economic development department.

If I can answer any questions, please do not hesitate to contact me.

Thank you.

A handwritten signature in black ink, appearing to read "Alison Best", is written over a faint, circular background.

Alison Best, CEO
Visit Oakland



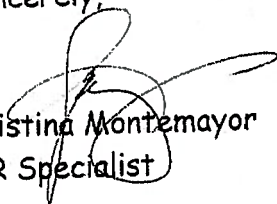
March 25, 2015

Re: Proposed Springhill Suites

Aidells Sausage Company, Inc has been contracted with the Holiday Inn Oakland Airport. We are in constant need of hotel rooms & meeting rooms for our out of town sales group on a frequent basis.

It would be a very beneficial for us to have other hotel options offering the level of comfort and service we enjoy at the Holiday Inn.

Sincerely,



Cristina Montemayor
HR Specialist



Frank & Ron Hotel-Motel Supply, Inc.

708 Whitney St., San Leandro, CA 94577

Business: 510-568-4072 Fax: 510-632-5265

www.motelsupplies.com

info@motelsupplies.com

March 10, 2015

Frank and Ron Hotel Motel Supply utilizes Holiday Inn Oakland for our sales representative's overnight accommodations. Due the Holiday Inn Oakland being so close to the Airport and near our facility the hotel offers shuttle service for our guests, it makes it very easy for our guests to fly in and out of Oakland. They transport our guests to and from the Oakland Airport and our facility. During the week is it nearly impossible to reserve a room due to the demand in Oakland. At times we have to relocate our guests to other cities which is inconvenient. A new hotel is needed in Oakland.

Thank you,

Nick Kalyan
Vice President



Associated Lighting Representatives, Inc.
7777 Pardee Lane
P.O. Box 2265
Oakland, CA 94621
510-638-3800 Fax 510-638-2908
www.alrinc.com

March 10, 2015

TO: Whom It May Concern

RE: Proposed Springhill Suites Location/Hegenberger Road

I was happy to hear that a new hotel is proposed for the Hegenberger/Oakland Airport location! It is much needed.

We work with the Holiday Inn Oakland Airport on a weekly basis and so often their hotel is booked, along with the other hotels on Hegenberger. A new hotel would be a welcome addition. We have not only out of town employees that book rooms weekly or monthly, but we have corporate guests from out of state that are here on a weekly basis. Having another hotel close to the airport would be a great addition.

We're hoping that the proposed Springhill Suites gets approval.

Respectfully.

Margaret Porpora