



PORT OF OAKLAND

APPLICATION FOR APPEAL OF PERMIT DECISION IN OAKLAND AIRPORT BUSINESS PARK

This is a request to appeal a decision (approval or disapproval) made by the Port of Oakland under the Airport Business Park Land Use and Development Code (LUDC). Appeal is made pursuant to section 5.7 of the LUDC. By filing this appeal, the applicant acknowledges that they will comply with the LUDC Administrative Appeal process. This application must be filed with the required fee (\$750).

Appellant Name: Mark Taylor, Carpenters Trust Funds for Northern California

Phone/E-mail: mtaylor@mcmorgan.com

Permit #: 5016

Permit Address: 195 Hegenberger Road

Project Description: Hotel

Certify EIR, Approve Sign Variances and Development Permit

Include with this application:

1. A summary description of the work proposed under the permit in question.
2. Was permit approved or disapproved?
3. A clear and concise description of the ground(s) upon which the Administrative Appeal is based.

Required findings per Section 5.5:

- B. General Development Permit Findings.** The Port may approve an application for a Development Permit, either as submitted or as modified, only upon finding that:
1. The proposed project will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons working in the Business Park or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.
 2. The proposed project is consistent with the City of Oakland's General Plan.
 3. The proposed project complies with provisions of this Code.
 4. The proposed project has been adequately evaluated under CEQA.
 5. The proposed project has been approved, or has a reasonable chance of being approved, by all outside agencies having jurisdiction over the project, including but not limited to: the City of Oakland, FAA, Regional Water Quality Control Board, Airport Land Use Commission, Alameda County Health Department, and State Lands Commission.
 6. The proposed project will neither interfere with the operations of Oakland International Airport nor enable the establishment of uses that may be incompatible with the potential imposition of noise, light, smoke, air currents, electronic or other emissions, vibrations, discomfort, and/or inconvenience resulting from airport operations.
 7. The Port has attached such conditions to issuance of the Development Permit as it deems reasonable or necessary to achieve the purposes of this Code, to reduce or to mitigate environmental impacts, and to address the project's anticipated burden on the Business Park and the Port, and which otherwise promote the health, safety, and welfare of the surrounding community.
- C. Specific Development Permit Findings.** In addition to the General Findings required above, the Port may approve an application for a Development Permit within a specific land use area of the Business Park, either as submitted or as modified, only upon finding that:
1. For projects proposed in the Commercial Corridor, such projects are consistent with the purposes, use restrictions and development and design standards established by this Code for the Commercial Corridor area.
 2. For projects proposed in the Business Park Interior, such projects are consistent with the purposes, use restrictions and development and design standards established by this Code for the Business Park Interior area.
 3. For projects proposed in the Park and Open Space, such projects are consistent with the purposes, use restrictions and development and design standards established by this Code for the Park and Open Space area.

Vendor No.: 202364

Allen Matkins Leck Gamble Mallory & Natsis LLP

CHECK DATE: 12/29/14

CHECK NO.: 244857

Invoice Number	Reference Number	Invoice Description	Amount
370251-071		Fee for Administrative Appeal	750.00
TOTAL AMOUNT			*****750.00

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW. DO NOT CASH IF NOT PRESENT.

CHECK DATE

12/29/14

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Los Angeles, Ca 90071
(213) 622-5555

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Port of Oakland

Allen Matkins
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Via FedEx

December 31, 2014

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

**Re: Appeal of December 18, 2014 PHO Decision
195 Hegenberger Road, Oakland
Permit No. 5016**

Dear Mr. Betterton and Commissioners:

This office represents Carpenters Trust Funds for Northern California, and hereby appeals the above-referenced decision, wherein the Port's Permit Hearing Officers certified an EIR, approved sign variances, and approved a Development Permit Application for a new hotel use at 195 Hegenberger Road in Oakland ("Decision"). The Carpenters Trust and this office provided comments and testimony during the October 6 and December 2 Director's Hearings, and submitted correspondence dated August 4, 2014, October 3, 2014, and November 24, 2014, into the administrative record in this matter, which is attached and is incorporated by reference as if set forth in full herein.

We appeal the Decision because our concerns and the project's flaws were not adequately addressed by the Port. In particular, the project is incompatible with the local land use regulations, while traffic safety issues raised throughout the process remain unaddressed. One of the primary findings that the Port must make regarding new development is that it will not be detrimental to the health, safety, or welfare to those working, visiting, or transiting through the area. In this case, forcing a 140-room hotel into the interior of a developed block will create internal vehicular circulation conflicts and exacerbate the block's existing ingress and egress problems. As such, the project will result in significant safety impacts that have not been adequately addressed by the Decision.

I. THE PROJECT WILL CREATE SAFETY ISSUES FOR DRIVERS AND PEDESTRIANS

The Decision fails to adequately address the traffic-related issues raised during the Director's Hearings. Throughout the proceedings, the Carpenters Trust, through traffic expert Richard Haygood, identified numerous circulation concerns relating to the project.

ESA, on behalf of the applicant, admits that the project will cause an LOS F delay at the Hegenberger exit during the p.m. peak hour, yet dismisses this adverse effect because it would not satisfy the CA MUTCD signal warrant. Arguing that the project would not trip a local CEQA threshold is not a sufficient response. Because the project will cause an unacceptable delay and worsen the egress from the project site to the point of presenting vehicular and pedestrian safety issues, the key finding that the "project will not be detrimental to the health, safety, peace, morals, comfort or general welfare" cannot be supported by the evidence in the record. (LUDC, § 5.5.B.1.)

In addition, Development Permits must include "conditions of approval appropriate to safeguard the public health, safety, and welfare among other matters." (LUDC, § 3.13.) In response to our concerns over the lack of adequate conditions, the Decision added Condition of Approval No. 18, which contains three subparts. The first subpart (18.A) only requires the applicant to provide onsite signage and information at the hotel lobby. (Decision, Att. 4, p. 3.) The other two subparts (18.B and 18.C) require a "Keep Clear" marking on the pavement and a "Right Turn Only" sign at the Hegenberger exit, but only if a private agreement is reached among easement holders. (Decision, Att. 4, p. 3.) As a result, there is only one enforceable condition of approval, which is of limited value. While signage is needed, our request to widen the Hegenberger Road driveway to provide a left-turn lane and a right-turn lane received no response.

II. THE RECENTLY-REVISED PROJECT CANNOT MEET THE LUDC'S PARKING AND LOADING REQUIREMENTS

During the October 6 hearing, the project's proponents testified that the project was a full service hotel and was thereby permitted under LUDC § 2.3.K. Opponents, including this office, disagreed with this unsupported claim during the October 6 and December 2 hearings, explaining that the project was instead a more limited "select service" hotel, which is not permitted under the LUDC. During the December 2 hearing, and for the first time during these proceedings, the project applicant admitted that the project required a waiver from Marriott in order to allow the project to be developed as a full service hotel, and that the waiver had not yet been secured. As noted in the Decision, Marriott transmitted the required written waiver on December 10, 2014.

This substantial, last-minute change to the project for the purpose of meeting the LUDC's definition of Transient Lodging is not without consequence. By increasing the level of food service and the number of employees, the project's impacts on parking and loading are now significantly

greater, yet these impacts have not been analyzed by the Port. If the project will indeed be a full service hotel, as now claimed by its proponents, it must be analyzed as one.

A. The Project Will Not Meet the LUDC's Parking Requirements

One result of the applicant's recasting of the project to a full service hotel is the need to recalculate the project's parking impacts to determine if the parking complies with the LUDC. The Decision does not address this issue.

In the FEIR, the project's parking was increased from 141 to 151 vehicle surface parking stalls in response to comments that the 15-employee select service hotel would be underparked. (FEIR, pp. 3-7, 4-1.) During the December 2 hearing, the applicant represented that it would increase the number of employees to approximately 35 in order to operate a full service hotel, and the December 4 ESA Technical Memorandum estimated that the revised hotel would generate between 35 (applicant's number) and 125 (Trip Generation Manual) employees. (12/4/14 ESA Memorandum, p. 1.)¹ Although ESA determined that this increase would not affect its prior traffic and GHG analyses, there is no reference to its effect on parking.

Even applying the applicant's extremely conservative figure of 35 hotel employees indicates that the project would not meet the LUDC's parking requirements. Applying the criteria of LUDC § 3.5.C to the employee-level claimed by applicant:

1 stall x 140 rooms at 80% capacity	112 stalls
3 stalls per 4 employees	27 stalls
1 stall per manager	2 stalls
1 stall per 3 banquet/meeting seats	23 stalls
1 stall per 2 banquet employees	3 stalls
Total	167 stalls

Obviously, applying more realistic employee numbers would generate higher parking requirements. Nevertheless, the project, as now proposed, will not provide adequate off-street parking. This inadequacy underscores the adjacent owners' concerns about the internal circulation impacts that the project will create. If the project's parking demand exceeds capacity, then hotel guests will be driving around the area looking for parking, and may decide to park on the adjoining properties.

¹ November 25, 2014 correspondence from UNITE HERE Local 2850 argues that if the project were a budget hotel (no food or beverage service), it would generate 35 employees, and if it were a "in-between class of hotels," it would generate 70 employees (0.5 per room). As such, the applicant's estimate of 35 employees for a full service hotel is low and unsupported by any data.

John Betterton
December 31, 2014
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As such, the project cannot be approved unless and until it complies with the LUDC's parking requirements.

B. The Project Will Not Meet the LUDC's Loading Requirements

Before the project transformed into a full service hotel with a full service restaurant midway through the Director's Hearing process, Port Staff dismissed concerns about the Project's nonconformity to the LUDC's loading requirements by claiming that:

the operator only expects delivery trucks such as parcel delivery trucks (i.e., FedEx and UPS) and other comparably sized vehicles once the hotel is operational. There would be no need for large (e.g., semi-trailer) truck deliveries to the hotel. As such, the delivery trucks, whose frequency would not be substantial for hotel operations, are expected to load and unload in the porte-cochere and bring deliveries to the front desk.

(FEIR, p. 3-21, comment 2-15.)

Nowhere does the Decision address the effect on loading by the transformation from a select service hotel (with no restaurant operations) to a full service hotel with a full service restaurant. Food delivery trucks are larger than parcel delivery trucks, and require larger loading areas and greater turn radii. It is unreasonable to assume that the restricted porte-cochere located at the hotel's main entrance and thoroughfare will be able to adequately accommodate these larger vehicles. Nor does the Decision address the greater frequency of truck deliveries that will result from the addition of a full service restaurant. The conflicts that will be created by truck loading and internal vehicular circulation for hotel guests and adjacent owners and guests will be significant, particularly with the addition of a full service restaurant at the hotel. The Decision fails to address, let alone analyze, this issue.

In addition, the LUDC's truck loading requirements generally require some degree of screening. (LUDC, § 3.6.) Here, the project would instead have all truck loading at its main entrance, which will be the heavily-used porte-cochere near the primary ingress and egress to Hegenberger Road. The Decision fails to address how the project's loading operations at this main entrance complies with the LUDC.

Very truly yours,



David H. Blackwell

DHB:kem

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Via Electronic Mail (CLaing@portoakland.com)

August 4, 2014

Colleen Liang
Environmental Specialist
Environmental Programs and Planning Division
Port of Oakland
530 Water Street
Oakland, CA 94607

**Re: 195 Hegenberger Road Hotel Draft EIR
SCH#2014031004**

Dear Ms. Liang:

This office represents Carpenters Trust Funds for Northern California, and hereby provides comments to the above-referenced DEIR on its behalf. Set forth herein are our initial comments. As more information is obtained, we may provide additional comments prior to the Port's certification of a Final EIR. As set forth below, the DEIR contains numerous deficiencies that require correction and further study, and we therefore request that the Port re-circulate the DEIR after addressing the issues raised below.

I. TRAFFIC AND CIRCULATION

This letter incorporates by reference the attached letter dated August 4, 2014, from Traffic Engineering Consultant Richard Haygood of Boster, Kobayashi & Associates. As set forth therein, the DEIR's discussion of the traffic and safety impacts at the site access driveways and the on-site circulation roadways is deficient in several critical areas. The Traffic and Circulation section of the DEIR should be revised accordingly and recirculated to address this significant information that has not yet been analyzed.

Of particular concern is the DEIR's lack of analysis regarding onsite circulation issues, especially the increase in hazards to bicyclists and pedestrians. The proposed parking and access layout is severely constrained, and forces vehicular traffic to negotiate a circuitous route from the public street system to a parking space located within the project. The only mitigation measure proposed in the DEIR to reduce these internal circulation conflicts is to install a traffic control device at the southwest corner of the property. (DEIR, p. 4.C-15; Mitigation Measure 4.C-3.) This

Colleen Liang
August 4, 2014
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proposed mitigation does not address, let alone remedy, the circulation conflicts present at other areas of the project site. The DEIR fails to recognize that the project site's landlocked location will likely cause significant internal circulation impacts (in addition to significant impacts on the existing street system) that require the Port to undertake a careful analysis of these impacts and all feasible mitigation measures. This is a poor site for a hotel use, and the Port owes a duty, not only to the adjacent landowners, but to the public at large, to adequately analyze the impacts of forcing a hotel use onto an already physically-constrained site.

II. GREENHOUSE GAS EMISSIONS

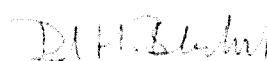
The DEIR's analysis of operational emissions, particularly mobile emission sources, appears flawed due to its reliance on underestimated traffic assumptions. The DEIR relies on an estimated 880 daily vehicle trips above existing levels, which is a key factor in its calculation that the operation of the project would result in an estimated 1,073 metric tons per year of CO₂e. (DEIR, pp. 4.B.-14-15.) This estimate is 97.5% of the 1,100 metric ton per year threshold established by BAAQMD. (*Id.*) As a result, the DEIR concludes that no mitigation is required. (*Id.*) If the DEIR properly adjusted its traffic assumptions to reflect the increased vehicle emissions referenced herein, then the 1,100 metric ton threshold would be exceeded and mitigation would be required.

III. ALTERNATIVES

The DEIR evaluated only two project alternatives: a No Project Alternative and a Reduced Development Alternative. The DEIR is required to discuss a "reasonable range of potentially feasible alternatives." (CEQA Guidelines, § 15126.6(a).) Analyzing only the required No Project Alternative (CEQA Guidelines, § 15126.6(e)(1)) and a Reduced Development Alternative (10 fewer rooms) raises the issue of whether a "reasonable range" of alternatives was considered.

This concern is heightened by the fact that there is no reference to, or discussion of, the viability of one or more alternative sites as a project alternative. A discussion of alternative sites is necessary because the project site's physical constraints referenced above make it one of the least attractive sites in the area for the proposed hotel use. There are other sites around Hegenberger that do not suffer from the proposed site's physical limitations and would not create the adverse traffic and safety impacts discussed above.

Very truly yours,



David H. Blackwell

Attachment

cc: Mark Taylor (via email)

Boster, Kobayashi & Associates
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August 4, 2014

David H. Blackwell
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Three Embarcadero Center, 12th Floor
San Francisco, CA 94111-4074

Re: 195 Hegenberger Road Hotel DEIR – Transportation & Circulation Comments (Our File No. 700478)

Dear Mr. Blackwell:

This letter is provided in response to your request for our firm to have a Traffic Engineer review the Draft EIR for the 195 Hegenberger Road Hotel development dated June 2014 (DEIR). I am a registered Civil Engineer and Traffic Engineer in California, and I work as a Traffic Engineering Consultant for Boster-Kobayashi & Associates (BKA). Prior to working at BKA, I was Director of Traffic Studies at a traffic engineering consulting firm for over six years, and before that I was the City Traffic Engineer at Redwood City for ten years and at West Sacramento for several years prior. My overall total of 35 years of traffic engineering experience includes preparation and peer review of numerous traffic impact studies for new development, mostly for environmental documents prepared in compliance with the requirements and guidelines of the California Environmental Quality Act (CEQA).

Based on my comprehensive review of the DEIR, my professional opinion is that the document is deficient in disclosing the traffic and safety impacts at the site access driveways and the on-site circulation roadways, which are also used by existing neighboring land uses, in several critical areas as described below.

Inaccurate and Inconsistent Depictions of Project Site Plan

Various figures in the DEIR are inconsistent regarding the location of the property line and the proposed number of parking spaces along the southeasterly side of the project across from the Harley Davidson dealership, and appear to misrepresent the location of the northwesterly wall of the dealership building and the width of the access easement area between the two properties:

- Figure 3-2 indicates the southeasterly border of the project site running behind the existing parking stalls across from the Harley Davidson building. I estimate this line is shown as varying between approximately 20 to 30 feet from the northwesterly wall of the Harley Davidson building.
- Figures 3-3 and 4.C-4 depict the southeasterly property line of the project site at approximately the same alignment, relative to the existing parking stalls for the Carpenters' Union Building and

the existing fence separating the parking for Francesco's Restaurant, as the project border line shown on Figure 3-2. These figures show this property line running immediately along the back end of the parking stalls located on the southeasterly side of the project across from the Harley Davidson building. However, these figures depict the driveway width between the property line and the Harley Davidson building at approximately 35 feet based on the graphic scale on the drawing. (I confirmed the graphic scale by comparing measurements of dimension lines noted on the drawing.)

- Figure 3-4 depicts the southeasterly property line of the project site running at some distance behind the back end of the parking stalls located along the southeasterly side of the project across from the Harley Davidson building, which suggests the property line would be closer to that building than indicated on the other figures. However, Figure 3-4 doesn't show the Harley Davidson building or any other adjacent reference points, nor does it include any dimensions or scale, so the corresponding width of the access easement driveway cannot be readily discerned.

Because of these discrepancies, the location of the southeasterly property line of the project relative to the parking stalls along that property line and the northeasterly wall of the Harley Davidson building, and the resulting width of the access easement driveway, cannot be reasonably estimated based on the information provided in the DEIR. More importantly, Figures 3-3 and 4.C-4 may misrepresent the relative location of the Harley Davidson building and the resulting driveway width by at least five feet greater than would actually occur with the project. If so, these figures could mislead the DEIR reader to believe that the available access driveway width after the project would be more than 15 percent greater than would actually result, and thereby to make flawed conclusions and underestimate the project's impact on traffic flow and safety in the access easement area shared with the Harley Davidson dealership.

Regarding the proposed number of parking spaces along the southeasterly side of the project across from the Harley Davidson dealership:

- Figure 3-3 shows 19 parking stalls.
- Figure 3-4 shows 17 parking stalls.
- Figure 4.C-4 shows 17 parking stalls (by my count), although the number 19 is mistakenly shown on the figure.

This two space discrepancy appears to result from differing layouts of the accessible parking stalls and pedestrian path at the easterly corner of the project site. As a result, the total number of parking spaces described on page 3-7 of the Project Description section and elsewhere in the DEIR appears to be overstated by two spaces, and should be revised from 141 off-street spaces to 139 spaces.

Additionally, 34 of the total parking spaces proposed are not shown on the Project Site Plan Figure 3-3, but are shown on Figure 3-4, the Landscape Plan. These 34 parking spaces are actually existing spaces located on the southwesterly leg of the project site along the access easement connecting with Pardee Drive. The DEIR should more clearly present the location of these parking spaces in the Circulation and Parking section of the Project Description, so readers can accurately assess the inconvenient location of these spaces relative to the proposed hotel building and its entrance. Project parking supply issues are addressed in a subsequent paragraph of this letter.

Insufficient Analysis of Potentially Significant Impacts at Site Access Driveways

The primary access points for ingress and egress to the project would be at two existing driveways: one on Hegenberger Road and one on Pardee Drive. The traffic analysis in an EIR for a commercial development typically includes level of service (LOS) analysis for primary access driveways on arterial roadways to evaluate the expected delay and queues for traffic movements entering and exiting such

driveways, even when the driveways serve only one property or proposed development project. In the case of the 195 Hegenberger Road Hotel project, which proposes access via existing driveways that are already used for the adjacent land uses/properties, detailed analysis of the resulting traffic conditions is necessary and essential. The DEIR lacks such detailed traffic analysis.

The DEIR lacks the following, which should be required in the Transportation and Circulation section:

Hegenberger Road (easterly) and Pardee Drive Driveways:

- Describe driveway locations, access restrictions, and relevant characteristics as part of the Existing Roadway Network. For example, at Hegenberger easterly driveway, left turn into driveway is prohibited, BART Connector columns in median affect visibility, etc.
- Counts of turning movements during the two-hour a.m. and p.m. peak periods.
- LOS analysis for a.m. and p.m. peak hours, for Existing, Existing plus Project, Cumulative, and Cumulative plus Project conditions. Focus can be on delays and queues related to left turns exiting each driveway. If a two-stage left turn exiting the Hegenberger driveway as mentioned on page 4.C-15 of the DEIR is a safe option, the corresponding LOS and delay for that movement must be documented.

Hegenberger Road (easterly) Driveway:

- Documentation with specific sight-distance measurements, applicable Caltrans sight-distance standard for prevailing 85th-percentile speeds on Hegenberger Road, and a scaled drawing clearly depicting the sight-distance situation for drivers exiting the driveway relative to the columns in the median that support the BART Airport Connector. Because of the obvious safety concerns involved for left turns exiting the driveway, which the project could exacerbate for drivers currently accessing the adjacent land uses by adding to the traffic volumes, the statement on page 4.C-15 of the DEIR that the sight-distance is acceptable requires very clear substantiation.

Pardee Drive Driveway:

- Address safety issues for conflicting traffic movements with the immediately adjacent driveway exit for the Francesco's Restaurant parking lot. The very short distance between these two driveways presents hazards for simultaneous turning movements at both, for example, a left turn exiting the project driveway at the same time as a right or left turn exiting Francesco's. Note that the Francesco's driveway is the only exit from its parking lot, which assures significant traffic volumes using that driveway.
- Address traffic safety issues when commercial vehicles use this 24-foot wide driveway, which is a minimal width for a two-way traffic driveway. Provide truck turning radius diagrams depicting the required path for large trucks using this driveway.

Insufficient Analysis/Mitigation of Potentially Significant Impacts for On-Site Circulation

The DEIR on page 4.C-1 notes that the project site is "set back approximately 270 feet west of Hegenberger Road and approximately 390 feet north of Pardee Drive." As a result, vehicles accessing the hotel project site must traverse those relatively long distances using existing on-site circulation driveways shared with existing land uses/properties. This configuration is much different from typical projects where the on-site circulation driveways serve only one property or proposed development project. Because the project proposes access via on-site existing driveways that are already used for the adjacent land uses/properties, detailed analysis of the resulting traffic conditions is necessary and essential. Analysis of the following issues should be required in the DEIR Transportation and Circulation section.

On-Site Driveway Intersections: The project would add conflicting traffic volumes at multiple on-site driveway intersections, and the traffic conflicts and visibility should be addressed at these intersections:

- The parking aisle along the front of the Harley Davidson dealership intersects the primary access driveway connecting with Hegenberger Road at a point less than two car lengths from Hegenberger Road. Traffic added by the project presents potential safety issues, and could extend the queue of vehicles trying to exit onto Hegenberger Road such that it would frequently block the Harley Davidson parking aisle.
- Parking aisles on the Carpenters' Union parcel at intersections with the primary access driveway that connects with Hegenberger Road.
- Access easement driveway between the hotel project and the back of the Harley Davidson dealership at its intersection with the primary access driveway connecting with Hegenberger Road.
- Four-way intersection of the primary access driveway connecting with Hegenberger Road, the parking aisle along the northwesterly side of the Carpenters' Union building, a Comcast parking access driveway, and a driveway for proposed hotel parking access that also serves as an important access driveway connecting with Pardee Drive.
- Parking aisles on both sides of the Comcast building at intersections with the important access driveway connecting with Pardee Drive.

Access Easement Driveway between Harley Davidson Building and Hotel Project Site:

- As described previously in this letter, the DEIR figures may misrepresent the available access driveway width after the project by at least 5 feet, or more than 15 percent, greater than would actually result. The available width of the two-way parking aisle driveway between the Harley Davidson building and the back of the proposed perpendicular parking stalls for the hotel cannot be reasonably estimated based on the information provided. The DEIR must clearly demonstrate whether the width of this two-way parking aisle would meet required City of Oakland parking lot design standards, taking into consideration that one side of the aisle is the wall of the Harley Davidson building that vehicles backing out of the parking stalls must be able to safely avoid. If the project doesn't meet such standards, appropriate mitigation is required.
- The DEIR's description of Impact 4.C-3 (pp. 4.C-14 and -15) mentions two sources of additional traffic that would use the subject access easement driveway: hotel patrons entering and exiting the parking at the rear (westerly side) of the hotel; and hotel guests parking along the south side of the hotel, directly along the access easement driveway. Both traffic sources contribute to "the potential conflicts that could develop between hotel traffic and Harley Davidson traffic in this relatively confined area" (the access easement), which "is considered a significant impact." Mitigation Measure 4.C-3 (p. 4.C-15 and Figure 4.C-4) would install bollards or a gate to eliminate traffic access between the parking at the rear of the hotel and the shared access easement driveway. This measure would not address the additional traffic from hotel guests parking along the south side of the hotel directly along the access easement driveway. However, the text of Mitigation Measure 4.C-3 incorrectly states that it would "eliminate hotel traffic exiting or entering hotel parking through the shared Harley Davidson easement." This misstatement of the mitigation measure's effectiveness must be corrected, and the impact of traffic from hotel guests parking along the south side of the hotel directly along the access easement driveway requires additional consideration. Potential hotel traffic use of the narrow driveway segment further south between the Harley Davidson building and the Francesco's parking lot, and then connecting through the parking aisle on the west side of the Harley Davidson building to the Hegenberger Road (westerly) driveway, must also be considered.

Traffic Volumes during the Day: The DEIR provides estimates of the number of vehicle trips that would access the hotel project site during the a.m. and p.m. peak hours of traffic on the adjacent street network, which are defined as 7:00 to 9:00 a.m. and 4:00 to 6:00 p.m. in the Institute of Transportation Engineers *Trip Generation Manual* used for the estimates. However, the hotel is likely to generate similar traffic volumes during other hours of the day, which could impact the on-site circulation driveways shared with the adjacent existing land uses, especially the Harley Davidson dealership with its sales and service activity during the day. The impacts of hotel traffic to on-site circulation during hours of the day other than the "peak" hours addressed in the DEIR must be considered.

Commercial Vehicle Deliveries:

- The DEIR and the project site plan figures included therein fail to identify any loading zone location or driveway routes for commercial vehicle deliveries to access the hotel project. The DEIR must address where commercial vehicle deliveries to the hotel project would be accommodated, and whether the on-site circulation driveways shared with the adjacent existing land uses would be impacted as a result. If the project significantly impacts on-site circulation driveways, appropriate mitigation is required.
- Mitigation Measure 4.C-3 proposes bollards or a gate to block traffic access between parking at the rear (westerly side) of the hotel and the access easement driveway between the south side of the hotel and the Harley Davidson building. This measure would also prevent such access for any commercial vehicles that might make deliveries at the rear (westerly side) of the hotel. Although this mitigation could reduce traffic somewhat in the access easement driveway shared with the Harley Davidson property, it would also constrain the access options available for commercial vehicle deliveries to the hotel, which could impact other on-site driveways shared with the adjacent properties. The DEIR must address these issues when considering potential impacts and mitigation of commercial vehicle deliveries.

Insufficient Analysis of Potentially Significant Impacts for Emergency Vehicle Access

The DEIR discussion of Impact 4.C-4 (p. 4.C-15) concludes that the project's impact to emergency vehicle access would be less than significant. This conclusion is based on statements that "the road network serving the project site currently accommodates the movements of emergency vehicles..." and that in an emergency, "vehicles would be able to access the project site in the same manner as under existing conditions." The DEIR fails to consider the following changes that would result with the project, which are critical factors for emergency vehicle access:

- The hotel project would add a five-story building on a site where the other buildings are no more than two stories. The DEIR must address the resulting fire department apparatus needed to respond to an emergency and whether the on-site circulation driveways provide adequate access for such fire apparatus to reach the hotel from Hegenberger Road and Pardee Drive, as well as whether driveways immediately surrounding the hotel would accommodate safe and effective deployment of such fire apparatus, based on Fire Department review and comment.
- The traffic volumes that the hotel would add to the on-site circulation driveways and intersections as described above should also be considered in evaluating the impact on emergency vehicle access.

Insufficient Analysis and Mitigation of Potentially Significant Construction Impacts

The DEIR discussion of Impact 4.C-1 on page 4.C-11 is insufficient as follows:

- The first paragraph includes this statement: "No soil would be imported or exported from the site, i.e., all excavated material would be utilized onsite." This statement is inconsistent with the last sentence of the second paragraph, which reads: "Travel routes for workers, spoils export and material import would be determined...[emphasis added]. The DEIR must reconcile this discrepancy, and if soil would be exported from the site, the DEIR must address the potential impact and provide appropriate mitigation.
- The first paragraph ends with the following: "The construction staging area would be onsite. Parking for construction workers would be located onsite or in immediately adjacent parking areas." The DEIR should clarify whether "onsite" means within the immediate boundaries of the hotel property, or includes shared access easements or other portions of the contiguous properties, and should also provide more specific description of "immediately adjacent parking areas." The DEIR must address the potential impacts to the circulation driveways or parking supply for adjacent properties with any proposed use of property outside the boundaries of the hotel property for construction staging or parking.
- The discussion of construction-generated traffic impacts (third paragraph) is limited to the routing and capacities of off-site, public roadways serving the project site. The DEIR must also address the impacts of construction traffic at the Hegenberger Road driveway regarding LOS, queues, sight-distance and safety, as well as impacts to on-site circulation driveways regarding traffic congestion, vehicle and pedestrian safety, and pavement deterioration.

Mitigation Measure 4.C-1 on page 4.C-12 should be revised to address impacts to on-site circulation and parking, including the following:

- Revise the first sentence to the following effect by adding language equivalent to the underlined text: "The project applicant and its construction contractor(s) will develop a construction management plan for review and approval by the Port of Oakland and the owners of the properties contiguous with the site prior to the start of construction."
- Add the following to the bullet point items and requirements for the construction management plan:
 - "Identification of parking areas for construction workers and staging areas for construction vehicles, equipment and materials."
- Revise the final bullet point to the following effect by adding language equivalent to the underlined text: "Provisions for monitoring surface streets, including driveway aprons and on-site circulation driveways, used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the project applicant."

Inaccurate Analysis of Project Parking

The DEIR discussion of Parking Considerations on pages 4.C-19 and -20 raises the following concerns, which need to be addressed:

- The first sentence states that "The proposed 140-room hotel would provide 141 onsite parking spaces, which would meet the Port of Oakland requirements..." and goes on to detail each component for calculating the required total of 141 spaces. However, as described previously in this letter, the Project Site Plan figures presented in the DEIR indicate that the proposed number of parking spaces along the southeasterly side of the project across from the Harley Davidson dealership appear to be overstated by two spaces, and therefore the total number of parking

spaces provided would be 139 spaces instead of 141 spaces. The 139 spaces would not meet the Port of Oakland requirement of 141 spaces.

- According to the Project Description text under the heading Circulation and Parking on page 3-7, the total of 141 "off-street" parking spaces to be provided includes "13 reciprocal spaces adjacent to the driveway easement from Hegenberger Road, to be shared with the business located immediately east of the project site." This presumably refers to 13 of the existing parking spaces along the westerly side of the Carpenters' Union building. The DEIR should confirm whether counting these "reciprocal" spaces as part of the project parking supply meets the Port of Oakland requirements for "on-site" spaces, and if not, should address the resulting parking supply shortfall.
- The final sentence states: "The proposed 140-room hotel would generate a parking demand, at 0.91 spaces per room, for approximately 127 spaces, which the project would accommodate (ITE, 2010)." Based on the issues noted above, if the 13 reciprocal spaces cannot be used as proposed to meet the required on-site parking for the project, then the total project parking supply would be only 126 spaces (= 139 minus 13). In that case, the project would fall just short of the estimated parking demand. In addition, the exact product of 140 rooms multiplied by 0.91 spaces per room is 127.4 spaces. In my experience, the customary professional practice when calculating parking demand requirements is to round up to the next whole number, or in other words, assume that demand for a fraction of a parking space requires a full parking space to be supplied. Using that practice, the hotel would generate parking demand for approximately 128 spaces, and if the 13 reciprocal spaces cannot be considered as part of the required parking supply, then the project would fall two spaces short of the estimated parking demand.

Please let me know if you have any questions.

Sincerely,



Richard K. Haygood, PE, TE
Traffic Engineering Consultant
Boster-Kobayashi & Associates

Allen Matkins

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Via Electronic Mail

October 3, 2014

J. Christopher Lytle
Executive Director
Port of Oakland
530 Water Street
Oakland, CA 94607

**Re: Executive Director's Hearing, October 6, 2014
195 Hegenberger Road Hotel, Oakland**

Dear Director Lytle:

This office represents Carpenters Trust Funds for Northern California, and hereby provides comments to the above-referenced item on its behalf. This letter incorporates by reference as if set forth in full herein our correspondence dated August 4, 2014, which addresses errors contained in the Draft EIR for the project. As set forth below, there are procedural and substantive defects set forth in the September 22 Staff Report and in the Final EIR ("FEIR") that mandate that the FEIR not be certified and that the project be disapproved.

I. THE STAFF REPORT HIGHLIGHTS PROCEDURAL AND SUBSTANTIVE ERRORS

A. Approval of Project Variances Before Conducting Environmental Review Violates CEQA

The Staff Report provides that during a May 30 public hearing, the Port's Public Hearing Officer considered applicant's request for five variances for the project's signage, "and made the determination to approve all five variances with the findings below." (Staff Report, Attachment 2, Page 1.) References to this prior variance approval are found throughout the Staff Report.

In the September 9, 2014 *Rominger v. County of Colusa* (C073815) decision, the court of appeal expressly held that pursuant to Public Resources Code section 21080(a), the California Environmental Quality Act ("CEQA") "applies to discretionary projects proposed to be carried out or approved by public agencies, including but not limited to; the enactment and amendment of zoning ordinances, the issuance of zoning *variances*...." (*Id.*) As such, the project's variance

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requests were categorically "projects" under CEQA. (*Id.*) Once an activity is determined to be a non-exempt project under CEQA, then the local agency is required to conduct environmental review, beginning with the preparation of an initial study, before the project can be approved. Here, the Port has reversed the order, and has approved the variances first, followed by a CEQA approval several months later. Referring to the variance approval as "conditional" upon approval of the Development Permit (Staff Report, Attachment 3[sic], Page 2) exalts form over substance, and cannot serve as an end around the strict requirements of CEQA. Even though the Port's May variance approval is purportedly conditioned on the upcoming approval of the Development Permit, the variance approval has been made, and the Port was required to perform CEQA review prior to that project approval.

B. Notice Defects

The Notice of Public Hearing identifies the Agenda Item as consideration of a "Building Permit Application and Environmental Impact Report." References to issuance of a building permit approval at the October 6 hearing are found throughout the Notice, Staff Report, and Agenda. Contrary to what is set forth in these public documents, the action to be taken by the Executive Director relates to a Development Permit, not a building permit. As set forth in the Port's Land Use and Development Code for the Oakland Airport Business Park ("LUDC"), an applicant may apply to the City of Oakland for a building permit *after* it has obtained approval from the Port for a Development Permit. (LUDC, §§ 1.3, 5.3.I.; *see also* Permit condition of approval #6.) Compounding the confusion are the errors in the assemblage of the Staff Report, which has the following order of attachments: Attachment 2, Page 1; Attachment 2, Page 1; Attachment 3, Page 2; Attachment 3, Page 1; Attachment 3, Page 2; *etc.*, and includes mislabeled text.

These errors undermine confidence that the Port has carefully considered the project and the issues and concerns relating to the project. It is also concerning that members of the public may mistakenly believe that only a ministerial building permit is being considered, and that the project's discretionary approvals such as a Development Permit have already been procured, thereby reducing the public's interest in participating at the hearing.

C. Any Project Approval Must be Conditioned to Address Safety Impacts

Development Permits must include "conditions of approval appropriate to safeguard the public health, safety, and welfare among other matters." (LUDC, § 3.13.) The current conditions of approval fail to address the adverse impacts to public safety caused by the project's ingress/egress to the public streets. In fact, because the circulation issues regarding the driveways have not been studied, it is difficult to formulate appropriate conditions to mitigate these issues. Nevertheless, if the Director approves the project despite the issues raised throughout this letter, at a minimum, the approval must include conditions of approval to address these issues, including, but not limited to:

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- Adding a second exit lane to Hegenberger, so there are dedicated right and left turns from that driveway.
- Providing a deceleration lane along southbound Hegenberger to the project's Hegenberger driveway.
- Require applicant to consult with adjacent property owners regarding the project's construction management plan prior to submitting it to the Port for approval.
- Per the construction management plan or otherwise, requiring applicant to monitor the project's driveways to Hegenberger and Pardee during construction to prevent construction-related traffic impacts on the adjacent property owners.
- Require that all commercial deliveries for the hotel occur on the project site only and that the hotel's vendors do not park on or load from the adjacent property parking areas.

II. THE FEIR IS LEGALLY INADEQUATE

CEQA requires the Port to provide detailed written responses to comments in the FEIR. (Pub. Res. Code § 21091(d); CEQA Guidelines, § 15088.) The Port's responses to comments made on behalf of the Carpenters Trust (and UNITE HERE) do not meet this standard. As identified in the attached October 2, 2014 correspondence from Traffic Engineering Consultant Richard K. Haygood, which is incorporated by reference into this writing, the Port has failed to adequately respond many of the traffic-related issues addressed in our August 4 correspondence. When an EIR is criticized by experts such as Mr. Haygood, the FEIR must provide specific, detailed responses while acknowledging the conflicting opinions and explain why suggestions in the comments have been rejected, supporting its statements with relevant data. (*Berkeley Keep Jets Over the Bay Comm. v. Board of Port Comm'rs* (2001) 91 Cal.App.4th 1344, 1367, 1371.) The FEIR does not meet this standard.

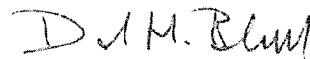
In addition, the FEIR contains both purported Staff-initiated revisions to the DEIR and revisions made in responses to public comments. Some of these revisions change the project's layout and setting, including its onsite-circulation. When such changes are reflected in an FEIR, the Port must consider recirculating the EIR under CEQA section 20192.1 and CEQA Guideline 15088.5. If any new information is significant, recirculation is required. Here, the significance of the new information is evident because it attempts to create a new vehicular circulation pattern while altering the previously-analyzed ingress and egress to the project site. In doing so, and as set forth in the attached correspondence, the FEIR fails to adequately analyze the environmental effects of these site and traffic-pattern modifications, thereby mandating recirculation. (See *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (2003) 6 Cal.4th 1112, 1130.)

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

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The Carpenters Trust respectfully requests that you do not approve the proposed project for the reasons set forth above. In the event that you decide to approve the project despite these concerns, it is imperative that conditions be added to the project approval that will protect pedestrians and vehicular traffic accessing the project site. Without such measures, the Port will be approving a project that will create an unacceptable health and safety risk to the public.

Very truly yours,

A handwritten signature in dark ink, appearing to read "D. H. Blackwell". The signature is written in a cursive, slightly slanted style.

David H. Blackwell

Attachment (Haygood letter)

cc: Mark Taylor

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October 2, 2014

David H. Blackwell
Allen Matkins Leck Gamble Mallory & Natsis LLP
Three Embarcadero Center, 12th Floor
San Francisco, CA 94111-4074

Re: 195 Hegenberger Road Hotel Final EIR – Inadequate Responses to Traffic Comments on DEIR
(Our File No. 700478)

Dear Mr. Blackwell:

This letter is provided in response to your request for our firm to have a Traffic Engineer review the Final EIR for the 195 Hegenberger Road Hotel development dated September 2014 (FEIR). I am a registered Civil Engineer and Traffic Engineer in California, and I work as a Traffic Engineering Consultant for Boster-Kobayashi & Associates (BKA). My 35 years of traffic engineering experience includes preparation and peer review of numerous traffic impact studies for new development, mostly for environmental documents prepared in compliance with the requirements and guidelines of the California Environmental Quality Act (CEQA).

Based on my comprehensive reviews of the FEIR and its predecessor Draft EIR (DEIR), my professional opinion is that responses to comments on the DEIR submitted in my August 4, 2014 letter are inadequate, such that the document remains deficient in addressing the potential traffic and safety impacts at the site access driveways and the on-site circulation roadways, which are also used by existing neighboring land uses, as described below.

Insufficient Analysis of Potentially Significant Impacts at Site Access Driveways

The primary access points for ingress and egress to the 195 Hegenberger Road Hotel project would be at two existing driveways: one on Hegenberger Road and one on Pardee Drive. These existing driveways are already used for accessing the substantial adjacent land uses/properties, and thereby serve as significant intersections on public roadways. As such, detailed analysis of the resulting traffic conditions is necessary and essential, but the FEIR lacks such detailed traffic analysis.

This precise issue was submitted as part of my comment letter on the DEIR, and has been enumerated as comment 2-6 in the FEIR. Comment 2-6 also stated that the traffic analysis in an EIR for a commercial development typically includes level of service (LOS) analysis for primary access driveways on arterial

roadways to evaluate the expected delay and queues for traffic movements entering and exiting such driveways, even when the driveways serve only one property or proposed development project.

The FEIR response to comment 2-6 states: "While a detailed analysis of site access driveway intersections can be conducted for an EIR analysis, it is not a requirement to provide a thorough analysis of project impacts, and in this case, the Port of Oakland (as Lead Agency) and its EIR/traffic consultant deems the level of detail presented in Section 4.C, *Transportation and Circulation* to be sufficient to identify all potential traffic impacts." However, no rational basis or justification for this statement is provided, and this response to the comment is inadequate. In order "to be sufficient to identify all potential traffic impacts," the FEIR must address the following reasonable questions regarding traffic operations and safety at the Hegenberger Road and Pardee Drive driveways:

- What is the existing peak-hour volume of traffic at each driveway?
- What is the existing peak-hour delay for traffic exiting each driveway, especially for left turns?
- How long are existing peak-hour queue lengths for traffic exiting each driveway?
- What will future delay and queues be like with anticipated traffic growth (baseline without the project) on Hegenberger Road and Pardee Drive?
- How many trips would the project add entering and exiting each driveway?
- How much additional delay would result exiting each driveway, and what are possible safety implications?
- How much longer would queues extend, and would queues obstruct on-site driveway circulation?
- Should either driveway be modified to provide two exit lanes to mitigate delay and queues?
- How many right turns entering from Hegenberger Road would the project add, and what are the safety implications? Should a separate right-turn deceleration lane be added on Hegenberger?
- What is the accident history at the existing driveways?

In addition, the DEIR section regarding Significance Criteria (p. 4.C-8) includes the following City of Oakland adopted standard threshold of significance as one that "this EIR shall determine impacts using": "At an unsignalized intersection, the project would add ten or more vehicles to the critical movement and after project completion satisfy the California Manual on Traffic Control Devices (MUTCD) peak hour volume traffic signal warrant." The FEIR and its response to the comment fails to provide adequate information to assess the project's impact relative to this threshold, which should include the number of vehicles the project would add to traffic at the driveway intersections on Hegenberger Road and Pardee Drive.

The FEIR should be obligated to clearly present the detailed analysis used by the preparers to make determinations regarding traffic impact at the driveways, including analysis relative to the City of Oakland threshold mentioned above. Only through detailed investigation and further mathematical analysis of information in the DEIR might a very knowledgeable reader be able to derive an estimate of the traffic volumes added by the project at the driveways. For such an exercise, Table 4.C-3 of the DEIR shows Project Trip Generation, including 30 a.m. peak-hour and 41 p.m. peak-hour trips exiting the project. Table 4.C-4 of the DEIR shows Project Trip Distribution, including a total of 69 percent of trips arriving from and departing to the east of the project site, which would result in a total of 21 a.m. peak-hour and 28 p.m. peak-hour trips leaving the project on eastbound Hegenberger Road. Although left turns exiting the site driveway directly onto eastbound Hegenberger Road are legal, the proposed project parking configuration may tend to direct some drivers to exit onto Pardee Drive and then proceed to Hegenberger Road to turn eastbound. Therefore, it might be reasonable to assume that about one-third, but certainly no more than half, of the traffic exiting the project toward eastbound Hegenberger Road would use the Pardee Drive driveway, with the remaining portion turning left directly from the

Hegenberger Road driveway. Even if a 50 percent split between the driveways were assumed, the result would be about 10 a.m. peak-hour and 14 p.m. peak-hour left turns exiting the Hegenberger Road driveway, which both meet the first part of the City of Oakland impact threshold described previously.

Unfortunately, detailed investigation and mathematical analysis of other information in the EIR reveals that the preparers apparently made much different assumptions. Figures 4.C-2 and 4.C-3 of the DEIR respectively present Existing and Existing Plus Project Peak Hour Turning Movement Volumes at the (non-driveway) study intersections. Comparing these intersection volumes with and without the project trips shows that the EIR assumed all of the exiting project traffic bound for eastbound Hegenberger Road would exit from the Pardee Drive driveway and then proceed to Hegenberger Road to turn left. This apparent assumption doesn't reflect the likely selection by many drivers of the shorter-distance project exit route directly via the Hegenberger Road driveway, and as such doesn't seem reasonable.

The FEIR still lacks the following, which should be required in order to adequately respond to the comments on the DEIR and address the reasonable questions regarding potential impacts detailed above:

Hegenberger Road (easterly) and Pardee Drive Driveways:

- Counts of turning movements during the two-hour a.m. and p.m. peak periods.
- Figure depicting estimated turning movement volumes to be added by the project.
- LOS analysis for a.m. and p.m. peak hours, for Existing, Existing plus Project, Cumulative, and Cumulative plus Project conditions. Focus can be on delays and queues related to left turns exiting each driveway. If a two-stage left turn exiting the Hegenberger driveway as mentioned on page 4.C-15 of the DEIR is a safe option, the corresponding LOS and delay for that movement must be documented.
- If the project would add ten or more vehicles to the critical movement, analysis of whether the MUTCD peak-hour volume traffic signal warrant would be satisfied.
- Accident history data review.

Pardee Drive Driveway:

Address safety issues for conflicting traffic movements with the immediately adjacent driveway exit for the Francesco's Restaurant parking lot. The very short distance between these two driveways presents hazards for simultaneous turning movements at both, for example, a left turn exiting the project driveway at the same time as a right or left turn exiting Francesco's. Note that the Francesco's driveway is the only exit from its parking lot, which assures significant traffic volumes using that driveway.

This precise issue was also submitted as part of my comment letter on the DEIR, and has been enumerated as comment 2-9 in the FEIR. The FEIR response to comment 2-9 states: "The project's access driveway on Pardee Drive would not be a new driveway, and as such interactions between vehicles using this driveway and the adjacent Francesco Restaurant driveway occur now, and it is reasonable to expect that the proposed project's less-than-substantial trip generation would not cause increased traffic hazards at these driveways." This response is inadequate for the following reasons:

- Fails to consider that most of the new project-generated trips would be Hotel guests/visitors, introducing drivers that are unfamiliar with the conflicting traffic hazard from the immediately adjacent Francesco's exit driveway. Note that most of the existing traffic at the Pardee driveway consists of daily drivers who are employees of Comcast or work in the Northern California Carpenters building, and are likely to be familiar with the conflicting traffic hazard from the immediately adjacent driveway.

- No rational basis or justification is provided for the characterization of the project's trip generation as "less-than-substantial." In fact, comparing the intersection volumes with and without the project trips as presented in Figures 4.C-2 and 4.C-3 of the DEIR shows that it assumed all 30 a.m. peak-hour and 41 p.m. peak-hour trips exiting the project would exit via a left turn from the Pardee Drive driveway and then proceed to Hegenberger Road. Additional analysis would be required before this additional project-generated traffic volume could be dismissed as "less-than-substantial."
- Traffic safety issues at the Pardee Drive driveway are further exacerbated by conflicts with heavy truck traffic from the neighboring UPS Distribution Center.

Insufficient Analysis of Potentially Significant Impacts for On-Site Circulation

Vehicles accessing the hotel project site must traverse relatively long distances of approximately 270 feet from Hegenberger Road and approximately 390 feet from Pardee Drive using existing on-site circulation driveways shared with existing land uses/properties. This configuration is much different from typical projects where the on-site circulation driveways serve only one property or proposed development project. Because the project proposes access via on-site existing driveways that are already used for the adjacent land uses/properties, detailed analysis of the resulting traffic conditions is necessary and essential. The project would add conflicting traffic volumes at multiple on-site driveway intersections, and the traffic conflicts and visibility should be addressed at these intersections.

This precise issue was submitted as part of my comment letter on the DEIR, and has been enumerated as comments 2-10 and 2-11 in the FEIR. Comment 2-11 also listed specific on-site driveway intersections where conflicts should be addressed. The FEIR response to comment 2-11 states: "The series of on-site circulation aisles and driveway approaches that project-generated traffic would interact with are all existing circulation features used by traffic generated by the Harley-Davidson, Carpenters' Union, and Comcast buildings. The circulation aisles are wide enough, and sight lines are clear enough, to safely accommodate traffic flow, and the proposed project's less-than-substantial trip generation would not cause increased traffic hazards." This response is inadequate because no rational basis or justification is provided for the characterization of the project's trip generation as "less-than-substantial." As presented in Table 4.C-3 of the DEIR (p. 4.C-10), the project would generate approximately 880 daily vehicle trips, with 74 trips during the a.m. peak hour and 84 trips during the p.m. peak hour, all traveling through the existing on-site circulation aisles. At minimum, the estimated assignment of these project-generated trips to the two existing main access driveways connecting with Hegenberger Road and Pardee Drive should be provided to quantify the expected additional traffic on those circulation aisles.

Access Easement Driveway between Harley Davidson Building and Hotel Project Site: The DEIR's description of Impact 4.C-3 (pp. 4.C-14 and -15) mentions two sources of additional traffic that would have used the subject access easement driveway with the site plan analyzed in the DEIR: hotel patrons entering and exiting the parking at the rear (westerly side) of the hotel; and hotel guests parking along the south side of the hotel, directly along the access easement driveway. Both traffic sources would have contributed to "the potential conflicts that could develop between hotel traffic and Harley Davidson traffic in this relatively confined area" (the access easement), which was "considered a significant impact" in the DEIR. However, the FEIR assumes a revised site plan Figure 3-3, which eliminates traffic access between the parking at the rear of the hotel and the shared access easement driveway, and as a result determines that Impact 4.C-3 would be less than significant.

Chapter 4 of the FEIR, Revisions to the Draft EIR, includes the following text regarding the shared access easement driveway as being altered from the DEIR to reflect the site plan changes, with added text

underlined: “Under existing conditions the area is used by Harley Davidson for employee parking, delivery truck access and as a practice area for motorcycle customers. The proposed project would alter the parking along the shared easement to accommodate hotel guest parking, introducing additional vehicular and pedestrian traffic to the area. This is a less than significant impact, as only vehicles parked in the parking spaces along the shared easement, would be using the shared easement.” Continuing from that point, the revision shows deletion of the remaining DEIR text regarding this impact, including “the potential conflicts that could develop between hotel traffic and Harley Davidson traffic in this relatively confined area.”

The FEIR still does not adequately address the additional vehicle and pedestrian traffic from hotel guests parking along the south side of the hotel directly along the access easement driveway and the resulting conflicts with the existing Harley Davidson operations and coinciding safety issues in a relatively confined area. This precise issue was submitted as part of my comment letter on the DEIR, and has been enumerated as comment 2-13 in the FEIR. The 23 hotel parking spaces shown on the site plan would likely be the most desirable and highly-occupied spaces on the hotel site because of their proximity to the hotel lobby and meeting room and direct access to the primary on-site circulation aisle, which would maximize resulting conflicts in the access easement. The FEIR also fails to consider that most if not all of the project-generated trips accessing the parking in the shared access easement would be Hotel guests/visitors, introducing drivers that are unfamiliar with the conflicting traffic hazards from the Harley Davidson operations. For these reasons, the response to the comment is inadequate, and the impact of vehicle and pedestrian traffic from hotel guests parking along the south side of the hotel directly along the access easement driveway requires additional consideration.

Commercial Vehicle Deliveries: The FEIR response to comment 2-15 states that “...delivery trucks, whose frequency would not be substantial for hotel operations, are expected to load and unload in the porte-cochere and bring deliveries to the front desk.” It should be noted that the revised site plan shown on revised Figure 3-3 of the FEIR depicts parking spaces for two cars under the porte-cochere, one of which would be a disabled-access space, and these spaces are included in the revised total parking supply of 151 spaces (discussed further below). How these parking spaces would interact or coexist with the expected delivery truck operations within the confined dimensions of the porte-cochere is questionable.

Insufficient Mitigation of Construction Impacts

Comments submitted as part of my comment letter on the DEIR included recommended revisions to Mitigation Measure 4.C-1 to address construction impacts to on-site circulation and parking. The FEIR responses to those comments are inadequate because the following issues remain unresolved.

Comment 2-19 recommended revising the Mitigation Measure 4.C-1 to the following effect by adding language equivalent to the underlined text: “The project applicant and its construction contractor(s) will develop a construction management plan for review and approval by the Port of Oakland and the owners of the properties contiguous with the site prior to the start of construction.” The FEIR response to comment 2-19 states: “The Port has jurisdiction over project approval, including review and approval of the project’s construction management plan, and may not delegate this authority to others. However, Port staff may consult with other parties as necessary, including nearby property owners and occupants. By virtue of its comments on the Draft EIR, the commenter has made its concerns known to Port staff.” To adequately respond to the comment, proper resolution of this issue still requires additional assurances to adjacent property owners and occupants regarding the intended process and timing for Port staff to consult with them, and such assurances must be clearly documented in the Building Permit Conditions of Approval.

In response to comment 2-21, Mitigation 4.C-1 has been revised in the FEIR by adding the underlined text to the following: "Provisions for monitoring surface streets, including driveway aprons and on-site circulation driveways, used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the project applicant." However, the Mitigation Monitoring and Reporting Program (MMRP) described in FEIR Chapter 5, Table 5-1, fails to include the underlined text in the last bullet point for Mitigation Measure 4.C-1 (p. 5-4). This omission must be corrected.

Concerns Regarding Revised Project Parking

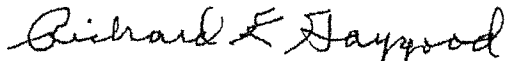
The FEIR revises the proposed project parking supply to include 151 spaces, instead of the 141 spaces described in the DEIR. Some of the parking spaces included in the new total of 151 raise the following concerns:

- According to the response to comment 2-23, and as shown on the Revised Site Plan Figure 4-1 (page 4-3), the total of 151 "on-site" parking spaces to be provided includes "13 reciprocal spaces adjacent to the driveway easement from Hegenberger Road, to be shared with the business located immediately east of the project site." This refers to all 13 of the existing parking spaces along the northeasterly side of the Harley Davidson building. No specific data is provided about existing occupancy of these parking spaces and how that would impact parking availability.
- According to the response to comment 2-5, and as shown on the Revised Site Plan Figure 4-1, the total of 151 "on-site" parking spaces to be provided also includes "...33 of their required parking spaces along the project's access easement from Pardee Drive." Close examination of Figure 4-1 reveals that all 33 of these parking stalls, representing 22 percent of the total supply, are "Compact" stalls that are each only 7 feet, 8 inches wide. Page 4-4 of Revisions to the Draft EIR indicates that the off-street parking supply would include 36 compact spaces, representing 24 percent of the total supply, but the three compact spaces other than the 33 along the access easement from Pardee Drive could not be located on site plan Figure 3-3 or Figure 4-1. Compliance of the proposed number and width of compact spaces with required parking standards should be addressed.

The Executive Director Permit Approval document, on Attachment 4, Page 2, includes the following as Condition of Approval number 10: "The parking provided on the Project site shall be used only by employees, patrons, and visitors to the Project." Because the Project's proposed supply includes the reciprocal spaces and other spaces along an access easement as described above, this language seems to introduce confusion that should be reconciled regarding shared use of these parking spaces for the Hotel Project and adjacent businesses.

Please let me know if you have any questions.

Sincerely,



Richard K. Haygood, PE, TE
Traffic Engineering Consultant
Boster-Kobayashi & Associates

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Via Electronic Mail

November 24, 2014

J. Christopher Lytle
Executive Director
Port of Oakland
530 Water Street
Oakland, CA 94607

**Re: Executive Director's Hearing, December 2, 2014
195 Hegenberger Road Hotel, Oakland**

Dear Director Lytle:

This office represents Carpenters Trust Funds for Northern California, and hereby provides comments to the above-referenced item on its behalf. This letter incorporates by reference as if set forth in full herein our correspondence dated August 4, 2014, and October 3, 2014, which addresses errors contained in the EIR and the Staff Report for the proposed hotel project, and our comments during the October 6 Director's Hearing. As set forth below, despite apparent attempts to correct the errors identified before and during the October 6 hearing, the project still suffers from procedural errors, an incompatibility with the local land use regulations, and unaddressed traffic safety issues. The project should not be approved as currently proposed.

A. The EIR Must be Recirculated

If significant new information is added to an EIR before final certification of the Final EIR, the lead agency must issue a new notice and recirculate the EIR for comments and consultation. (Pub. Res. Code § 21092.1; 14 Cal. Code Regs. § 15088.5; *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal. App. 4th 412, 447.) Recirculation is required when the addition of new information deprives the public of a meaningful opportunity to comment on substantial adverse project impacts or feasible mitigation measures or alternatives that are not adopted. (*Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1993) 6 Cal. 4th 1112.) The CEQA Guidelines specify that the new information may include changes in the project or environmental setting as well as additional data or other information. (14 Cal. Code Regs. § 15088.5(a).) The purpose of recirculation is to give the public and other agencies an opportunity to evaluate the new data and the validity of conclusions drawn from it. (*Silverado Modjeska Recreation & Park Dist. v. County of Orange* (2011) 197 Cal. App. 4th 282, 305.) Also, when

added information itself shows a new potentially significant impact, recirculation is required. (*Vineyard Area Citizens, supra.*)

In this case, significant new information was provided since the October 6 hearing, thereby mandating that the EIR be recirculated. The new materials for the upcoming hearing include a "Technical Memorandum" prepared by project traffic consultant ESA, dated November 12, 2014, which addresses four separate issues raised during the October 6 hearing. The Technical Memorandum contains new analyses based on new studies that generated new data, tables, and findings. Based on the additional traffic analyses, ESA determined that the project would not create additional significant impacts. This is the type of "additional data or other information" referenced in CEQA Guideline § 15088.5(a) for which the public and other agencies must be provided an opportunity to evaluate. Here, the EIR was not recirculated following the issuance of the Technical Memorandum upon which it relies, and this new CEQA document was made available for review for less than the 30-day minimum recirculation period required by the CEQA Guidelines. (14 Cal. Code Regs. §§ 15087(e), 15088.5(d), 15105(a).)

B. The Project is Not Permitted Under the LUDC

During the October 6 hearing, evidence showed that the project did not meet the definition of "Transient Lodging" set forth in Section 2.3 of the Port's Land Use and Development Code ("LUDC") and was therefore not a permitted use. In particular, Section 2.3.K provides that a hotel use is permitted only "where the facility meets the standards of a full service hotel defined as a minimum of one hundred (100) sleeping rooms, containing a full service restaurant providing three meals per day and room service, and including at least one indoor and one outdoor recreational amenity." (LUDC, p. 10.) Opponents of the project noted during the October 6 hearing that the project lacked a full service restaurant and any evidence that room service would be provided.

Although the Staff Report claims that the project applicant has since "submitted documents describing how the applicant intends to comply with the 'full service restaurant' requirement of the LUDC" and that the project now complies with the LUDC standard, such evidence is not present in the materials provided to the public. (Staff Report, Att. 1, pp. 1-2.) There is no discussion regarding the purported restaurant's operations. Instead of providing evidence on how the project will provide three meals per day and room service, the applicant submitted a revised floor plan dated 11/4/14, which simply changes the name of the "communal circle" and "food prep" areas from the most recent floor plan (FEIR, Fig. 4-2) to "restaurant" and "kitchen," respectively. Applicant should not be allowed to evade the LUDC's requirement for a full service restaurant by simply switching names on the floor plan.

Should you decide to approve the project despite the lack of evidence supporting a restaurant use, we respectfully request that the project approval be conditioned on the express requirement that it provide the services required of a full service restaurant, particularly the three

J. Christopher Lytle
November 24, 2014
Page 3

meal services and room service, and that failure to do so is ground for revocation of the development permit.

C. The Staff Report Does Not Adequately Address the Project's Traffic/Safety Issues

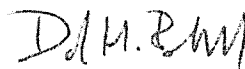
As set forth in the attached letter from traffic consultant Richard Haygood dated November 24, 2014, the traffic-related issues raised during the October 6 hearing have not been adequately addressed. As the letter explains in detail, the above-referenced Technical Memorandum fails to address numerous points previously raised by Mr. Haygood.

Moreover, the Technical Memorandum admits that the project will cause an LOS F delay at the Hegenberger exit during the p.m. peak hour, yet dismisses this adverse effect because it would not satisfy the CA MUTCD signal warrant. (Tech Memo, pp. 5-6.) Arguing that the project would not trip a local CEQA threshold is not a sufficient response. The Technical Memorandum ignores the fact that the "long delay and LOS F results for Existing Plus Project conditions demonstrate that traffic problems for drivers exiting from the Hegenberger Road driveway would be significantly exacerbated, presenting traffic safety issues." (Haygood letter, p. 2.) Because the project will cause an unacceptable delay and worsen the egress from the project site to the point of presenting safety issues, the key finding that the "project will not be detrimental to the health, safety, peace, morals, comfort or general welfare" cannot be supported by the evidence in the record. (LUDC, § 5.5.B.1.)

Similarly, and as explained in our prior correspondence, Development Permits must include "conditions of approval appropriate to safeguard the public health, safety, and welfare among other matters." (LUDC, § 3.13.) The Staff Report's two signage-based suggestions do not fully address the issue. (Staff Report, Att. 2, p. 8.) While such signage is needed, a more fundamental fix would be widening the Hegenberger Road driveway to provide a left-turn lane and a right-turn lane. (Haygood letter, p. 3.) This option should be addressed during the December 2 hearing.

The Carpenters Trust respectfully requests that you do not approve the proposed project for the reasons set forth above. In the event that you decide to approve the project despite these concerns, it is imperative that conditions be added to the project approval that will protect pedestrians and vehicular traffic accessing the project site.

Very truly yours,



David H. Blackwell

Attachment (Haygood letter)

cc: Mark Taylor

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November 24, 2014

David H. Blackwell
Allen Matkins Leck Gamble Mallory & Natsis LLP
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San Francisco, CA 94111-4074

Re: 195 Hegenberger Road Hotel Final EIR – Inadequate Responses to Traffic Comments on Final EIR
(Our File No. 700478)

Dear Mr. Blackwell:

This letter is provided in response to your request for our firm to have a Traffic Engineer review the Technical Memo dated November 12, 2014 prepared by ESA regarding the “195 Hegenberger Road Hotel: Traffic Circulation Analysis in Response to Comments on the Final EIR” (Tech Memo). I am a registered Civil Engineer and Traffic Engineer in California, and I work as a Traffic Engineering Consultant for Boster-Kobayashi & Associates. My 35 years of traffic engineering experience includes preparation and peer review of numerous traffic impact studies for new development, mostly for environmental documents prepared in compliance with the requirements and guidelines of the California Environmental Quality Act (CEQA).

Based on my comprehensive reviews of the Tech Memo, Final EIR (FEIR) and its predecessor Draft EIR (DEIR), my professional opinion is that the responses to comments on the FEIR that I submitted in my October 2, 2014 letter and summarized orally at the October 6, 2014 public hearing are inadequate. As a result, the document remains deficient in addressing the potential traffic and safety impacts at the site access driveways and the on-site circulation roadways, which are also used by existing neighboring land uses, as described below.

Insufficient Analysis of Traffic Safety Impacts at Hegenberger Road Site Access Driveway

The primary access points for ingress and egress to the 195 Hegenberger Road Hotel project would be at two existing driveways, including one on Hegenberger Road that is already used for accessing the existing substantial adjacent land uses/properties. Although the Tech Memo presents new analysis of the resulting traffic conditions, the traffic analysis is flawed, and fails to present potential measures to correct traffic delays and queues that impact traffic safety as a result of the project.

The Tech Memo presents the results of a Level of Service (LOS) analysis of Existing Conditions at the Hegenberger Road driveway in Table 2 (page 4). This LOS analysis reports the average delay per vehicle

and LOS results separately for each of two parts of a “two-stage left turn” for traffic exiting from the Hegenberger Road driveway. As described in the Tech Memo, the two-stage left turn assumes drivers will first cross westbound traffic on Hegenberger Road to get as far as the median area, which they will use as a refuge area until a gap in eastbound traffic on Hegenberger Road allows them to complete the left turn. However, drivers making the complete left turn from start to finish actually experience the accumulated total delay, which is the sum of the delays from the two parts, and that total delay and the corresponding LOS must be used to accurately describe the traffic operations. Based on data in Table 2 for Existing Conditions, the total average delay per vehicle for left turns exiting the Hegenberger Road driveway (Part 1 plus Part 2) is 51.1 seconds during the AM peak hour and 66.7 seconds during the PM peak hour, which both correspond to LOS F based on the ranges presented in Table 1 of the Tech Memo (page 2). These LOS F results for Existing conditions demonstrate that traffic exiting from the Hegenberger Road driveway already experiences long delays that present traffic safety issues.

For Existing Plus Project Conditions, i.e. with the addition of the 50 percent of traffic generated by the proposed hotel that was assumed to use the Hegenberger Road driveway, the LOS results are reported in Table 3 of the Tech Memo (page 6). Note that Table 3 reports an average delay of 74.9 seconds (approximately one minute and 15 seconds) and LOS F just to complete Part 1 of two-stage left turn during the PM peak hour, which would be an increase of 25.2 seconds, or greater than 50 percent, over Existing conditions. Based on data in Table 3, the total average delay per vehicle for left turns exiting the Hegenberger Road driveway (Part 1 plus Part 2) would be 56 seconds during the AM peak hour and 91.9 seconds during the PM peak hour, which both correspond to LOS F. The resulting total average delay of over one-and-a-half minutes during the PM peak hour would be an increase of more than 25 seconds over the Existing delay for left turns exiting the Hegenberger Road driveway. The long delay and LOS F results for Existing Plus Project conditions demonstrate that traffic problems for drivers exiting from the Hegenberger Road driveway would be significantly exacerbated, presenting traffic safety issues.

It should also be noted that the Existing Plus Project analysis presented in the Tech Memo assumed that 50 percent of the outbound trips to be generated by the hotel project would exit at the Hegenberger Road driveway, with the other half exiting at Pardee Drive. Page 4 of the Tech Memo states that this 50 percent “trip assignment was calculated to respond to a comment on the Final EIR that analysis should be conducted on an assumption that half of the outbound project trips would use the access driveway on Hegenberger Road to make an eastbound left turn.” Presumably, this refers to a comment on the FEIR submitted in my October 2, 2014 letter. However, my comment in that letter actually reads as follows:

“...it might be reasonable to assume that about one-third, but certainly no more than half, of the traffic exiting the project toward eastbound Hegenberger Road would use the Pardee Drive driveway, with the remaining portion turning left directly from the Hegenberger Road driveway. Even if a 50 percent split between the driveways were assumed, the result would be about 10 a.m. peak-hour and 14 p.m. peak-hour left turns exiting the Hegenberger Road driveway....”

In other words, my comment actually suggested that assigning about two-thirds of the traffic exiting the project to the Hegenberger Road driveway would be a reasonable assumption, but in no case should less than half of the outbound trips be assigned to that driveway. Therefore, because the Tech Memo assumed only half of the outbound project trips would exit at the Hegenberger Road driveway, the Existing Plus Project LOS results for that driveway should be considered a best-case scenario, which may underestimate the traffic delays that could actually result with the hotel project.

The two-stage left turn concept presented in the Tech Memo is also problematic from a traffic safety perspective. Although the FEIR included sight-distance measurements from the perspective of a driver waiting to exit the Hegenberger Road driveway, i.e. starting Part 1 of the left turn, the sight-distance for the refuge area in the median where Part 1 is completed and Part 2 starts has not been addressed. Based on my personal observation of the site, the sight-distance from this refuge point is very limited because of its proximity to the large column in the median that supports the BART Airport Connector structure, which obstructs the left-turning driver's view of approaching eastbound traffic on Hegenberger Road. This safety issue must be addressed.

The LOS analysis presented in the Tech Memo also fails to address Cumulative and Cumulative plus Project conditions at the project driveways. Hegenberger Road traffic volumes will increase substantially with future growth in the surrounding area, as documented in the DEIR. This additional traffic will further exacerbate the long delays and LOS F conditions for drivers exiting from the Hegenberger Road driveway, presenting traffic safety issues.

The Tech Memo (pages 4-5) reports on field observations of traffic conditions at the Hegenberger Road driveway, but does not detail how long the observations were conducted to substantiate the conclusions that it describes. Regarding queues, the Tech Memo states that "a maximum of two vehicles was queued, waiting to exit onto Hegenberger Road; the access to parking spaces in front of the Harley-Davidson Store was never blocked." This description is inconsistent with comments from occupants of the immediately adjacent properties, who report much longer peak queues and delays. Additionally, although a queue of two vehicles might not block "access to parking spaces in front of the Harley-Davidson Store," the second vehicle in that queue would probably obstruct a vehicle attempting to exit that parking aisle.

Issue #3 in the Tech Memo (pages 7-8), based on the assumption that only 50 percent of outbound trips from the hotel project would exit at the Hegenberger Road driveway, opines that the additional left turns "would not substantially change the existing queue length conditions (i.e., approximately two cars)." However, examination of the Traffic Level of Service Calculations for the PM Peak Hour Traffic Conditions included in Attachment 2 of the Tech Memo shows that the queue would increase from approximately two vehicles under Existing conditions to three vehicles with the addition of project traffic. The queue of three vehicles would completely block access to the parking aisle in front of the Harley-Davidson store.

The Tech Memo fails to present potential measures to correct traffic delays and queues that impact traffic safety as a result of the project. Such measures could include:

- Widen the Hegenberger Road driveway to provide two lanes for exiting traffic: one for left turns and one for right turns. The existing driveway only provides a single lane for all exiting traffic, which requires drivers wishing to turn right to wait behind those experiencing longer delay waiting to turn left. Providing two separate lanes would reduce the average delay and queue length for exiting traffic, and allow drivers to avoid the delay for left turns by choosing to turn right and use an alternate route instead.
- Encourage hotel guests and employees to use the Pardee Drive driveway, through signage along on-site parking aisles, and distribution of maps and directions through the hotel web site, registration confirmation emails, upon check-in, etc.

Insufficient Analysis of Potentially Significant Impacts for On-Site Circulation

Vehicles accessing the hotel project site must traverse relatively long distances of approximately 270 feet from Hegenberger Road and approximately 390 feet from Pardee Drive using existing on-site circulation driveways shared with existing land uses/properties. This configuration is much different from typical projects where the on-site circulation driveways serve only one property or proposed development project. Because the project proposes access via on-site existing driveways that are already used for the adjacent land uses/properties, detailed analysis of the resulting traffic conditions is necessary and essential. The project would add conflicting traffic volumes at multiple on-site driveway intersections, and the traffic conflicts and visibility should be addressed at these intersections.

This precise issue was submitted as part of my comment letters on both the FEIR and the DEIR, and was enumerated as comments 2-10 and 2-11 in the FEIR. Comment 2-11 also listed specific on-site driveway intersections where conflicts should be addressed. The FEIR response to comment 2-11 states: "The series of on-site circulation aisles and driveway approaches that project-generated traffic would interact with are all existing circulation features used by traffic generated by the Harley-Davidson, Carpenters' Union, and Comcast buildings. The circulation aisles are wide enough, and sight lines are clear enough, to safely accommodate traffic flow, and the proposed project's less-than-substantial trip generation would not cause increased traffic hazards." This response is inadequate because no rational basis or justification is provided for the characterization of the project's trip generation as "less-than-substantial." As presented in Table 4.C-3 of the DEIR (p. 4.C-10), the project would generate approximately 880 daily vehicle trips, with 74 trips during the a.m. peak hour and 84 trips during the p.m. peak hour, all traveling through the existing on-site circulation aisles. The Tech Memo fails to address this issue.

Access Easement Driveway between Harley Davidson Building and Hotel Project Site:

The following text regarding the subject shared access easement driveway is included in both the FEIR and the DEIR: "Under existing conditions the area is used by Harley Davidson for employee parking, delivery truck access and as a practice area for motorcycle customers. The proposed project would alter the parking along the shared easement to accommodate hotel guest parking, introducing additional vehicular and pedestrian traffic to the area." However, the FEIR revised the DEIR to conclude that this is a less than significant impact. Chapter 4 of the FEIR, Revisions to the Draft EIR shows deletion of other DEIR text regarding this impact, including "the potential conflicts that could develop between hotel traffic and Harley Davidson traffic in this relatively confined area."

The FEIR still does not adequately address the additional vehicle and pedestrian traffic from hotel guests parking along the south side of the hotel directly along the access easement driveway and the resulting conflicts with the existing Harley Davidson operations and coinciding safety issues in a relatively confined area. This precise issue was submitted as part of my comment letter on the DEIR, and was enumerated as comment 2-13 in the FEIR. The 23 hotel parking spaces shown on the site plan would likely be the most desirable and highly-occupied spaces on the hotel site because of their proximity to the hotel lobby and meeting room and direct access to the primary on-site circulation aisle, which would maximize resulting conflicts in the access easement. The FEIR also fails to consider that most if not all of the project-generated trips accessing the parking in the shared access easement would be Hotel guests/visitors, introducing drivers that are unfamiliar with the conflicting traffic hazards from the Harley Davidson operations. For these reasons, the response to the comment is inadequate, and the impact of vehicle and pedestrian traffic from hotel guests parking along the south side of the hotel directly along the access easement driveway requires additional consideration. The Tech Memo fails to address this issue.

Commercial Vehicle Deliveries: The FEIR response to comment 2-15 states that "...delivery trucks, whose frequency would not be substantial for hotel operations, are expected to load and unload in the porte-cochere and bring deliveries to the front desk." It should be noted that the revised site plan shown on revised Figure 3-3 of the FEIR depicts parking spaces for only two cars under the porte-cochere, one of which would be a disabled-access space, and these spaces are included in the revised total parking supply of 151 spaces. How these parking spaces and their typical use for guest arrival and departure activity would interact or coexist with the expected delivery truck operations and their turning radius requirements within the confined dimensions of the porte-cochere is highly questionable. The Tech Memo fails to address this issue.

Insufficient Mitigation of Construction Impacts

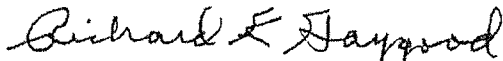
Comments submitted as part of my comment letter on the DEIR included recommended revisions to Mitigation Measure 4.C-1 to address construction impacts to on-site circulation and parking. The FEIR responses to those comments are inadequate because the following issues remain unresolved.

Comment 2-19 recommended revising the Mitigation Measure 4.C-1 to the following effect by adding language equivalent to the underlined text: "The project applicant and its construction contractor(s) will develop a construction management plan for review and approval by the Port of Oakland and the owners of the properties contiguous with the site prior to the start of construction." The FEIR response to comment 2-19 states: "The Port has jurisdiction over project approval, including review and approval of the project's construction management plan, and may not delegate this authority to others. However, Port staff may consult with other parties as necessary, including nearby property owners and occupants. By virtue of its comments on the Draft EIR, the commenter has made its concerns known to Port staff." To adequately respond to the comment, proper resolution of this issue still requires additional assurances to adjacent property owners and occupants regarding the intended process and timing for Port staff to consult with them, and such assurances must be clearly documented in the Building Permit Conditions of Approval.

In response to comment 2-21, Mitigation 4.C-1 has been revised in the FEIR by adding the underlined text to the following: "Provisions for monitoring surface streets, including driveway aprons and on-site circulation driveways, used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the project applicant." However, the Mitigation Monitoring and Reporting Program (MMRP) described in FEIR Chapter 5, Table 5-1, fails to include the underlined text in the last bullet point for Mitigation Measure 4.C-1 (p. 5-4). This omission must be corrected.

Please let me know if you have any questions.

Sincerely,



Richard K. Haygood, PE, TE
Traffic Engineering Consultant
Boster-Kobayashi & Associates