

May 7, 2015

Board of Port Commissioners
Port of Oakland
530 Water Street
Oakland, CA 94607

SUPPLEMENT

Dear Commissioners:

I am writing regarding UNITE HERE Local 2850's appeal of the development permit approval for the proposed hotel at 195 Hegenberger Road. We described the basis of our appeal in our letter dated December 23, 2014, and elaborated on it in our letter dated February 22, 2015. In this letter I hope to make a few clarifications and address some inaccuracies in Port staff's statements at the February 26 appeal hearing and in the staff reports prepared for the February 26 hearing and the continued hearing on May 14.

1. The proposed project does not include a *bona fide* restaurant

In approving the development permit for 195 Hegenberger, Port staff has concluded that it meets the LUDC's requirement of a full-service hotel with a full-service restaurant. We believe staff erred in making this conclusion. Port Attorney Danny Wan stated at the February 26 hearing that, while staff has reached a certain conclusion regarding the proposal's purported inclusion of a full-service restaurant, the Commission can make its own determination based on the evidence in the record. We believe that, based on the facts before you, you should determine that the proposed hotel is not, in fact, compliant with the LUDC's requirement.

The staff report for the February 26 hearing makes the assertion that "fundamentally, Appellant UniteHere appears to be concerned that the Port will not enforce the provisions of its LUDC in the future, not that the project proposed is inconsistent with the LUDC." While we do believe that the Commissioners should be concerned about the difficulty of enforcing the full-service restaurant requirement in the likely event that the hotel does not comply with it in the future (for reasons detailed in our previous letters), staff's assertion is a gross misrepresentation of our position. We have consistently pointed out that Springhill Suites is not a full-service hotel brand and that drawing a few tables on the floor plans and printing the word "restaurant" in the lobby do not constitute a *bona fide* restaurant.

Staff has repeatedly referred to the Springhill Suites in Las Vegas as evidence that a Springhill Suites can indeed include a full-service restaurant and operate as a full-service hotel. While we have pointed out that the Las Vegas property is a rare exception to the rule and that its location on the Las Vegas Strip is not comparable to the proposed hotel's location behind a motorcycle dealership on Hegenberger Road, we do believe that the Las Vegas example provides an illuminating contrast with the proposed hotel. The Las Vegas property has a dedicated restaurant space called Palettes Gallery & Bistro that serves lunch and dinner and is separate and distinct from both the complementary breakfast area and the "communal circle" or hotel lobby. By contrast, the proposed hotel at 195 Hegenberger includes no such facility. Rather, the applicant has taken the standard Springhill Suites design and printed the word "restaurant" in the area that normally functions as the hotel lobby and is called the "communal circle." Contrary to the staff's assertion that the applicant always intended a full-service restaurant, this change was only made after we pointed out the proposal's lack of compliance with the LUDC. Likewise, until we pointed out this lack of compliance, the proposal clearly did not include the kitchen space necessary to operate a full-service restaurant, but only the tiny "food prep area" that is designed to serve the standard Springhill Suites breakfast buffet.

Given these facts, which staff is at pains to obscure, we urge the Commission to conclude what we believe is obvious: that the floor plan edits, the sample menus submitted by the applicant, and even the applicant's promise to maintain a single server and a single cook on duty to staff the "restaurant," do not constitute a *bona fide* restaurant, but mere window dressing designed to secure the project's approval. On its face, the proposal does not satisfy the intent of the LUDC's requirement of a full-service hotel with a full-service restaurant. We all know what a full-service hotel and a full-service restaurant look like, and this proposal does not fit the bill. We urge the Commission to reverse the project approval on that basis.

2. The greenhouse gas analysis uses the wrong trip generation number

Staff has consistently failed to respond in any substantive way to our argument that the greenhouse gas calculations have been manipulated to fall just under the threshold of significance. As we have stated previously, the calculations use the wrong formula for estimating the number of vehicle trips generated by the project. The staff report attempts to obscure this issue by focusing on the fact that one of our letters referred to the URBEMIS model, which used to be a standard method of calculating greenhouse gas emissions. Staff correctly points out that the current standard is the CalEEMod model, which (like URBEMIS) uses data from the ITE Trip Generation Manual. Staff fails to note, however, that the EIR does not use the standard trip generation factor for hotels that is included in the CalEEMod, which is taken from the ITE manual. Rather, the user has manually overridden the CalEEMod default value with a lower value that is based on a different method of calculating trip generation, which also comes from the ITE manual, but which does not make sense for a hotel of this size. (Please see our letter February 22 letter for a detailed explanation of why the number used by the EIR is inappropriate.) Even if the Commission takes the applicant's assertions regarding its purported restaurant at face value, this project cannot be approved until the EIR is revised to incorporate the correct, default trip

generation factor from CalEEMod. Because this will result in the greenhouse gas emissions exceeding the threshold of significance, approval of the project would require either mitigation measures sufficient to reduce the greenhouse gas emissions to below the threshold of significance, or a statement of overriding considerations.

3. The incorrect trip generation number also compromises the EIR's traffic analysis

While we have focused on the implications that the use of incorrect trip generation numbers has on the greenhouse gas calculations, it also compromises the accuracy of the traffic analysis. The traffic analysis depends on the same trip generation number as the greenhouse gas analysis. We have explained above and in previous letters that this number is based on an incorrect ratio of trips generated per room. Apart from this problem, the traffic analysis should utilize the ITE rates for trips generated *per occupied room*, not trips per room. The ITE data for trips generated per room reflects an average number of trips over an extended period of time, during which the hotel would not be sold out every day. This is arguably appropriate for greenhouse gas calculations, but a conservative traffic analysis requires an assessment of the traffic impacts on days when the hotel is sold out. Please see the attached memo from traffic engineer Stephen Orosz of Orosz Engineering Group for a detailed explanation of this issue.

In conclusion, we urge the Commission to reverse the approval of the development permit for the proposed hotel at 195 Hegenberger based on its noncompliance with the LUDC's requirement of a full-service hotel with a full-service restaurant. In addition, we ask the Commission to reverse the certification of the EIR based on the faulty analysis we have described, and to require that for the project to move forward in the future, the EIR be revised to include an accurate assessment of the traffic and greenhouse gas impacts of the project.

Sincerely,

A handwritten signature in black ink, appearing to read "Ty Hudson", with a stylized, flowing script.

Ty Hudson
Research Analyst



OEG Ref 15-404

April 20, 2015

UNITE HERE Local 2850
Attn: Ty Hudson
1440 Broadway, Suite 208
Oakland, CA 94612

Subject: Trip Generation Comments – 195 Hegenberger Road Hotel, Port of Oakland

Dear Mr. Hudson:

Orosz Engineering Group, Inc. (OEG) would like to thank you for the opportunity to provide the following analysis of the trip generation calculation methodology for the subject project. The core of the transportation section of the EIR for the project is based on the number of estimated trips for the project.

The analysis included in the environmental document uses the ITE land use code “Hotel” for the project, an appropriate code. However, the actual trip generation rates utilized under the hotel category was based on a factor titled “rooms”. This factor is applied to the entire number of hotel rooms for the project. This factor includes a reduction in the number of forecast trips assuming the hotel is not fully booked or occupied.

Given the nature of the hotel and to provide for a more conservative analysis, ITE offers trip generation rates based on the number of “occupied” rooms. These factors provide for the traffic impacts when the hotel would be the most when it is fully occupied.

The application of the trip rates based on the “occupied room “ factors would result in a much higher trip generation for the project.

	Daily (ADT)	AM Peak Hour	PM Peak Hour
Trips used in EIR	880	74	84
Trips using Occupied Room rate	1249	94	98

As seen above, the number of project related trips in the EIR significantly underestimates the potential impacts that the project may actually have on the street system.

Therefore based on the more conservative traffic that could be generated by the hotel, the project environmental document underestimates the project impacts by over 40% on a daily basis, 27% on a AM peak hour basis and 17% on a PM peak hour basis. Based on this underestimated trip generation,

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project impacts are not fully documented and the environmental document should be revised to account for the trips that could be generated by the project.

This concludes our traffic assessment for the Hegenberger Road Hotel project. Should you have any questions or require additional information, please feel free to contact us directly.

Sincerely,

Orosz Engineering Group, Inc.



Stephen A. Orosz, PE
Traffic Engineer

